

PART 2045 - GENERAL

Subpart X - EQUAL EMPLOYMENT OPPORTUNITY

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PART 2045 - GENERAL

Subpart X - EQUAL EMPLOYMENT OPPORTUNITY

§2045.1151 General.

It is the policy of the Federal Government, including the United States Department of Agriculture (USDA) and Farmers Home Administration (FmHA) to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, or handicap, and to promote equal employment opportunity (EEO) through a positive continuing program in each Department and Agency as it applies to every aspect of Federal employment policy and practice.

§2045.1152 Purpose.

This Subpart and Exhibits C, D, E, F, and G are the policy and rules of the EEO Program in the USDA and FmHA. Exhibit A, "56 Questions and Answers on EEO," has been developed to provide referenced-highlights of the policy and rules of the EEO Program and implementation thereof. It may be utilized by employees who wish to become familiar with the Agency's EEO Program and will be particularly helpful to employees with EEO collateral duties, including employees on EEO Advisory Committees (EEOAC), who wish to study the Instruction and Exhibits to better perform their respective collateral duties. Exhibit A may also be utilized by top managers who wish to enhance their knowledge of the principles and theories of EEO in the Federal Government, and to become familiar with the policy and requirements of the EEO Program in FmHA. Exhibit B, "Structure of EEO Program Responsibility," provides employees and applicants a direct source of National and field staffing accountability. Exhibits C and D contain the policies and procedures for an Agencywide Federal Women's Program (FWP) and Hispanic Employment Program (HEP), and their goals and objectives, and provide guidelines and instructions for the function of the FWP and HEP Managers at the National and field levels. In addition, these Exhibits cite the authority for the establishment of the FWP and HEP. Each Exhibit contains an attachment listing all field FWP and HEP Managers, their telephone numbers and areas within which they serve. Exhibit E contains the policy and procedure for an Agencywide EEO Counseling Program, the authority, and management requirements. Exhibit F sets forth policy, authority and guidance for processing complaints of discrimination arising in the Agency; provides information to Agency employees regarding the EEO complaint procedure and sets forth policy and procedure on the participation and responsibility of Agency officials with regard to their role in the discrimination complaint process. Exhibit G sets forth guidelines and procedures for nomination, selection, tenure and responsibilities of EEOAC. (Revised 10-24-90, PN 148.)

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Personnel
General

1
(Revision 1)

(11-3-82) PN 855

§2045.1153 Authorities and responsibilities.

(a) The basic authority for the EEO Program is the EEO Act of 1972 (Public Law 92-261), and Office of Personnel Management's (OPM) regulations. Public Law 92-261 brought Federal employees and Agencies under the EEO provisions of the Civil Rights Act of 1964 and required [Federal] Departments and Agencies to insure that all personnel actions are free from discrimination. This law also requires that Federal Agencies allocate sufficient resources to insure a results-oriented EEO Program at Headquarters and field levels. Resources include personnel, funds, and necessary equipment and space allocations. In USDA and FmHA a positive, continuing program of equal opportunity for employees and applicants will promote the full realization of EEO.

(b) In accordance with the requirements of the EEO Act of 1972, (Public Law 92-261), the Civil Services Reform Act of 1978, and Part 1613 of Title 29 of the Code of Federal Regulations, the EEO Program at the National and field levels of the Agency should include the following basic elements:

- (1) Sufficient resources in staffing and budget to carry out the program in a positive and effective manner to meet current and future goals.
- (2) A written policy statement to all employees in support of EEO including a statement in support of the prohibition against sexual harassment in the workplace and the prohibition against discrimination and account of handicapping condition.
- (3) Affirmative employment goals.
- (4) Development and implementation of an Career Enhancement Plan.
- (5) Results-oriented Hispanic Employment and Federal Women's Programs.
- (6) Implementation of a Federal Equal Opportunity Recruitment Program, including the development of a Plan with respect to workforce analysis, determination of underrepresentation, identification of available applicant sources, and development of innovative recruitment techniques and strategies.
- (7) Designation of EEO Counselors.
- (8) Maintenance of EEO Posters.
- (9) A statement in the position descriptions of all managers and supervisors relating to their EEO responsibilities.

(c) A Quarterly Report on EEO is required for all FmHA field offices. This report (Form RD 2045-4) will enable the National Office to assess EEO activities in the field and provide assistance wherever needed. At the beginning of each quarter, all State Offices and the Finance Office will receive questions covering a variety of EEO program efforts. A response will be due within 30 days. Based on the information submitted, the offices will receive either positive feedback or recommendations for remedial action. The Quarterly Report on EEO must be signed by the State Director, or Director, Finance Office, who will be evaluated on the content and timeliness of their responses. Reports should be addressed to: Administrator, Attn: EEO Coordinator.

§2045.1154 Designations of responsibility.

(a) Director of Equal Employment Opportunity (Director of EEO). The Secretary of Agriculture has designated the Assistant Secretary for Administration, USDA, Washington, DC 20250, as Director of EEO, with authorization to carry out effectively the responsibilities of Public Law 92-261, and the regulations, orders, and instructions issued pursuant to this law.

(b) Equal Employment Opportunity Officer (EEEO). The Head of each Agency is designated as EEEO with the responsibility of effectively administering the EEO Program, which includes affirmative action, the Federal Women's Program, the Hispanic Employment Program, the EEO Counseling Program, and complaints of discrimination. The Administrator, Farmers Home Administration, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250, serves in this capacity for FmHA.

(c) Deputy Equal Employment Opportunity Officer (DEEOO). The following officials are hereby designated as DEEOOs in FmHA.

(1) The Deputy Administrator for Management, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, DC 20250, as DEEOO, will assist the Administrator in carrying out his/her functions as EEEO throughout FmHA. (Revised 12-16-92, PN 196.)

(2) The Assistant Administrator - Finance Office, St. Louis, MO, and the State Director of each State are DEEOOs and will assist the Administrator in carrying out his/her functions as EEEO within their assigned area(s). (Revised 12-16-92, PN 196.)

(3) Responsibility for implementation of the EEO Program rests solely with DEEOOs within their assigned area(s). DEEOOs are responsible for evaluating the performance of the EEO duties of EEO collateral-duty employees and for assuring that these employees receive appropriate support; e.g. training, official time, and mobility deemed necessary for effective performance of the duties of their official EEO assignment.

(d) Director, Equal Opportunity (EO) Staff. The Director, EO Staff, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, DC 20250, serves on the Administrator's staff and is responsible for developing and implementing FmHA policies and practices in administering Agency responsibilities under Title VI of the Civil Rights Act of 1964, coordinates activities under the EEO Program, and represents the Administrator on all aspects of the EO and EEO programs by providing leadership and direct assistance to FmHA officials. Further, the Director, EO Staff is charged with carrying out a positive program designed to assure equal opportunities in all organizations of the Agency.

(e) Equal Employment Opportunity Coordinator. The EEO Coordinator, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, DC 20250, serves on the Administrator's staff and is responsible for planning, coordinating, and directing the Agency's overall nationwide EEO Program, assuring compliance with established policies, regulations and laws. Further, the EEO Coordinator maintains a close working relationship with officials of FmHA, the Department's Office of Minority Affairs, Office of Personnel, Office of Inspector General, the General Counsel's Office, and the Assistant Administrator for Human Resources, FmHA. (Revised 12-16-92, PN 196.)

(f) Equal Employment Opportunity Counselors (EEO Counselors). The designated EEO Counselors, the areas they serve, and their functions are contained in Exhibit E of this subpart. EEO Counselors are designated by the EEOC to serve a term of 3 years and may not be designated for more than two consecutive terms. In addition to field EEO Counselors, there are two EEO Counselors-at-large, employees in the National Office, Washington, DC. Implementation of the EEO Counseling Program is an integral part of FmHA's overall EEO Program and provides all employees and applicants the right to have their allegations of discrimination against the Agency considered under established discrimination complaint processing regulations for the purpose of achieving an informal resolution.

(g) National Federal Women's Program Manager (FWPM). This position is located on the EEO Branch of FmHA, 14th and Independence Avenue, SW, Washington, DC 20250. The National FWPM is responsible for planning and directing the Agency's Federal Women's Programs and advising top management officials on the special concerns of women employees and applicants, including identifying barriers to equal employment opportunity, to assure that women participate equally in Agency programs. In addition, the National FWPM also provides leadership for field FWPMs setting program goals, planning the short- and long-range program objectives, and guidelines commensurate with Exhibit C of this subpart.

(h) National Hispanic Employment Program Manager (HEPM). This position is located on the EEO Branch of FmHA, 14th and Independence Avenue, SW, Washington, DC 20250. The National HEPM is responsible for planning and directing the Agency's Hispanic Employment Program, and serves as the principal resource person and Staff advisor on unique concerns and problems related to equal employment opportunities for Hispanic employees and applicants. Additionally, commensurate with EEO policy and program goals and objectives set forth in Exhibit D of this subpart, the National HEPM provides leadership continuity, advice, and guidance for field HEPMs and recommends changes to remove barriers against Hispanic employees and applicants.

§2045.1155 Processing complaints of discrimination on grounds of race, color, religion, sex, national origin, age, or handicap.

(a) Exhibit F of this subpart sets forth policy and guidance on the procedure for processing EEO complaints of discrimination arising in the Agency; provides information to employees regarding the EEO complaint procedure and defines their rights; and sets forth policy and procedure on the participation and responsibility of the Agency Administrator, State Directors, Assistant Administrator - Finance Office, managers and supervisors, and EEO officials with regard to their role in the discrimination complaint process.

(b) All employees or applicants for employment will be free from restraint, interference, coercion, discrimination, or reprisal in making complaints including the counseling stage or anytime thereafter; in serving as the representative of a complainant; in appearing as a witness; or in seeking information in accordance with the Department's regulations and procedures. The above principles apply with equal force after a complaint has been adjudicated.

§2045.1156 Availability of regulations.

This subpart and Exhibits A, B, C, D, E, F, and G are available for inspection in the Agency's EEO office; Assistant Administrator for Human Resources office; Finance Office, St. Louis, MO; and each State, District, and County Office. Copies of this subpart and all Exhibits will be given to any employee or applicant for employment on request.
(Revised 12-16-92, PN 196.)

§2045.1157 EEO posters.

It is the responsibility of each DEEOO to make sure that the "EEO" poster required by Departmental regulations is kept up to date and displayed on each official bulletin board in the National Office, the Finance Office, St. Louis, MO, and each State, District, and County Office under his/her jurisdiction.
(Renumbered 10-24-90, PN 148.)

§§2045.1158 - 2045.1200 [Reserved]

Attachments: Exhibits A, B, C, D, E, F, and G.

oOo

56 Questions and Answers on EEO

1. The implementation of the FWP and HEP originates with _____ officials and extends to those midlevel managers and supervisors Agencywide. (See Exhibit C and D, paragraph(s) A.)
2. A complaint of discrimination is against _____ and not against _____. (See Exhibit F, paragraph C (3).)
3. Sexual harassment is _____ conduct in the _____ and will not be condoned. (See Exhibit C, paragraph C. (2)(a).)
4. EEO counseling begins when an _____ (or _____) contacts an EEO Counselor within _____ of an alleged discriminatory act. (See Exhibit E, paragraph H. (1).)
5. An employee [in the field] should not be given _____ EEO assignments. (See Exhibits C and D. paragraph(s) H (3)(c).)
6. Field FWPMs and HEPMs are _____ by the State Director and the Assistant Administrator, Finance Office with the _____ of the FmHA Administrator. (See Exhibit C, paragraph G. (2) and Exhibit D, paragraph G. (3).)
7. The _____ and the _____ are thus the only parties to the discrimination complaint proceeding. (See Exhibit F, paragraph C. (3).)
8. Employees who have full-time or collateral duty EEO responsibilities are _____ members of the EEOAC and, therefore, may neither vote or serve as a Committee official; e.g., Chairperson, Secretary, Recorder. (See Exhibit G, paragraph B. (3).)
9. The full-time EEO Counselor will serve as an expert counselor, develop and conduct training and provide collateral duty EEO Counselors with _____ and _____ on the informal complaint process, mediation and personnel regulations. (See Exhibit E, paragraph E. (1).)
10. A program goals of the HEP is _____ of Hispanics in all _____ and at all _____. (See Exhibit D, paragraph D. (1).)
11. EEO Advisory Committee members may participate in promotion panel meetings as _____ in accordance with the Agencywide Merit Promotion Plan. (See Exhibit G, paragraph Q. (4).)

12. EEO Counselors serve as an _____ for the purpose of attempting an informal resolution of the aggrieved person's allegations. (See Exhibit E, paragraph I. (1).)
13. It is important to stress that the EEO complaint procedure is from beginning to end basically an _____. (See Exhibit F, paragraph F. (1).)
14. Specifically, sexual harassment is deliberate or repeated unsolicited _____, _____, or _____ of a sexual nature which are unwelcome. (See Exhibit G, paragraph C. (2)(b).)
15. The FWPM and HEPM counsel employees upon request but do not act as _____. (See Exhibits C and D, paragraph(s) I. (2).)
16. Primary responsibility for the EEO program rests with _____. (See Exhibits C, D, and E, paragraph(s) A.)
17. In order to be properly filed, formal complaints of discrimination must be addressed to one of the following officials: _____, _____, or _____. (See Exhibit F, paragraph E. (1).)
18. The filing of a complaint of discrimination will not terminate an _____. (See Exhibit F, paragraph E. (1).)
19. The EEO Advisory Committee establishes lines of communication between _____ and _____ through which employees views on EEO issues may be brought to the attention of _____. (See Exhibit G, paragraph C.)
20. An informal resolution need not have a _____ in order for corrective action to be authorized. (Refer to paragraph D. (4)., of Exhibit F for background and explanation.)
21. Under EEO law theory, evidence of _____ to discriminate is not necessary to conclude that a complainant received disparate treatment. (see Exhibit F, paragraph G. (2)(a).)
22. Federal employees and agencies were placed under EEO provisions of the Civil Rights Act of 1964 by _____. (See Exhibit F, paragraph B. (2).)
23. It is the _____ and not the _____ who must decide whether to file a formal complaint of discrimination.1 (See Exhibit E, paragraph H. (4)(a).)

24. The seven prohibited factors in order are _____, _____, _____, _____, _____, _____, or _____ (See Exhibits C, D, E, F and G, paragraph(s) C.)
25. The evidence in a complaint file is analyzed to determine whether or not the complainant received _____. (See Exhibit F, paragraph G. (2)(a).)
26. An objective of the FWP is to utilize to the fullest extents possible the _____ of women in the workforce. (See Exhibit C, paragraph E. (2).)
27. Accordingly, _____ will be conducted, then a number of people will be _____ to the Committee to improve _____ of those races, occupations, grade levels, etc., which were not selected through the _____ process. (See Exhibit G, paragraph F. (5).)
28. The Complaints Examiner issues findings, analysis, and a _____ and forwards these and the complaint file to USDA, Office of Personnel. (See Exhibit F, paragraph I (4).)
29. The EEO Counselor advises the aggrieved persons of his/her rights should informal resolution fail and provides a _____ to the full-time EEO Counselor, the employee and appropriate officials. (See Exhibit E, paragraph H. (4).)
30. Members of the EEO Advisory Committee shall serve a _____-year term. (See Exhibit G, paragraph K.)
31. An EEO complainant has a _____ amount of _____ to present an EEO complaint if he/she is otherwise in active duty status. (See Exhibit F, paragraph E. (4)(a).)
32. The informal interviews and record reviews of an EEO Counselor should not be confused with an in-depth _____. (See Exhibit E, paragraph H. (2)(a).)
33. To make the file available would open the opportunity for _____ and _____, or at least employee _____ of _____ and _____, and would therefore have a _____ on the testimony of employees. (See Exhibit F, paragraph G. (2)(c).)
34. The Exhibits to RD Instruction 2045-X provide _____ and _____ to field managers and other employees with supervisory and/or managerial responsibilities. (See Exhibits C, D, E, F and G, paragraph(s) A.)

35. A program goal of the FWP is _____ of women in all _____ at all _____. (See Exhibit C, paragraph D. (2).)

36. An EEO Counselor or other EEO official cannot serve as a _____ for a complainant or for the Agency in connection with the processing of a complaint of discrimination. (See Exhibit F, paragraph E. (5).)

37. A program objective of the HEP is eradication of every form of discrimination based on _____. (See Exhibit D, paragraph E. (1).)

38. Any corrective action granted should not be contingent upon _____ of the complainant. (See Exhibit F, paragraph G. (1)(b).)

39. Disparate treatment can be _____ or _____ rather than individually motivated when a _____ of past discriminatory practices is revealed by the evidence. (See Exhibit F, paragraph G. (2)(a).)

40. The FWP and HEP are _____. (See Exhibit C and D, paragraph(s) H.)

41. A full-time HEPM who is _____ and _____ is selected by _____ procedures at the National level. (See Exhibit D, paragraph G. (2).)

42. The law requires that all _____ affecting employees or applicants shall be free from discrimination. (See Exhibits C, paragraph B. (3); D, E and F, paragraph(s) B. (2).)

43. Authority to select and/or nominate EEO Counselors rests with the _____ and _____. (See Exhibit E, paragraph (E). (1), (2) and (3).)

44. Complaint processing regulations provide for a _____ to be made by the Agency if an informal adjustment is not reached. (See Exhibit F, paragraph H.)

45. If an employee says to a Counselor that he or she was denied training because of non-merit factors other than the seven prohibited factors, the Counselor should inform the employee of the right to file a _____. (See Exhibit E, paragraph H. (1)(c).)

46. Executive Order _____ integrated the FWP into the overall Federal EEO Program. (See Exhibit G, paragraph B. (2).)

47. The Department may _____ a complaint because of the failure of the complainant to proceed with the complaint. (See Exhibit F, paragraph E. (3).)

48. In furtherance of this policy, it is the responsibility of the Agency to assure that the _____ of Hispanics in the Agency's workforce is addressed. (See Exhibit D, paragraph C.)

49. The evidentiary burden on the complainant throughout the complaint procedure is to provide _____ about the alleged discrimination he/she _____ and, when possible, to provide such _____ with _____ and _____. (See Exhibit F, paragraph E. (3).)

50. If the complainant is not satisfied with the proposed disposition, the complainant may request a _____ or a _____
_____. (See Exhibit F, paragraph(s) H. (1) and (2).)

51. A program objective of the FWP is eradication of every form of _____ discrimination from personnel policies and practices. (See Exhibit C, paragraph E. (1).)

52. There are several ways in which the Committee should reflect the make-up of the Agency's workforce. First, both _____ and _____ should be represented. (See Exhibit G, paragraph N. (2).)

53. In addition to consulting with an EEO Counselor within _____ calendar days of the matter giving rise to the individual allegation of discrimination, the aggrieved person must also indicate to the EEO Counselor the wish to pursue the matter as a _____ and to act as the agent. (See Exhibit F, paragraph O.)

54. The basic authority for the EEO Program is the _____
_____. (See 2045.1153.)

55. It is the responsibility of each _____ to make sure that the EEO Poster required by _____ is kept up to date and shown on each _____ in all offices under his/her jurisdiction. (See 2045.1157 (a).)

56. Responsibility for implementation of the EEO Program rests _____
_____ within their assigned area(s). DEEOOs are responsible for _____ of the EEO duties of EEO collateral-duty employees and for assuring that these employees receive appropriate support, e.g., _____, _____, _____.

_____ deemed necessary for effective performance of the duties of their official EEO assignment. (See 2045.1154 (c)(3).)

(10-24-90) PN 148

2045-X Exhibit B is not automated see manual

Exhibit C - Part 2045, Subpart X - Equal Employment Opportunity
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(11-3-82) PN 855

Exhibit C - Part 2045, Subpart X - Equal Employment Opportunity
- Federal Women's Program

A. Purpose and scope. The purpose of this Exhibit is to set forth policy and procedures for an Agencywide Federal Women's Program (FWP); provide guidelines and instructions to field managers (State Directors; Director, Finance Office; and other employees with supervisory and/or managerial responsibilities) with regard to the FWP; and to set forth guidelines for the function of the Federal Women's Program Manager (FWPM) at the National and field levels. In scope, implementation of the FWP originates with top management officials and extends to those midlevel managers and supervisors Agencywide who are directly involved in hiring, training, promoting and evaluating the performance of FmHA employees.

B. Legal Authority.

(1) Executive Order 11375, October 1967. (Added sex to other prohibited forms of discrimination in Federal employment. The former Civil Service Commission (CSC) established the Federal Women's Program in response to the order.)

(2) Executive Order 11478, August 1969. (Integrated the Federal Women's Program into the overall Federal Equal Employment Opportunity Program.)

(3) Public Law 92-261, March 1972. (Federal employees and agencies were placed under equal employment opportunity provisions of the Civil Rights Act of 1964 with regard to processing formal complaints of discrimination, affirmative action, upward mobility, program evaluation and training. The law requires that all personnel actions affecting employees or applicants shall be free from discrimination because of race, color, religion, sex, or national origin.)

(4) Additional authority and guidance on the Federal Women's Program appear in the FWP "Handbook for Managers," "Putting Women in Their Place," both U.S. Office of Personnel Management Publications, and Federal Personnel Manual Letter 713-37.

C. Equal Employment Opportunity (EEO) Policy.

(1) Prohibition against discrimination. It is the policy of the Department of Agriculture to prohibit discrimination and to ensure equal opportunity for all employees and applicants without regard to race, color, religion, sex, national origin, age, or handicapping condition. In furtherance of this policy, it is the responsibility of the Agency to assure that all women have an opportunity to achieve the best possible utilization of their skills, together with the opportunity to improve their skills to the fullest extent practicable so they may qualify for advancement and work at their fullest potential in the Agency.

(2) Prohibition Against Sexual Harassment.*

(a) Sexual harassment is unacceptable conduct in the workplace and will not be condoned. It is a form of employer misconduct which undermines the integrity of the employment relationship. It is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as the taking or refusal to take personnel action, including hiring and promotion of employees who submit to sexual advances or refusal to hire or promote employees who resist or protest sexual overtures.

(b) Specifically, sexual harassment is deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome. A supervisor who uses implicit coercive behavior to control, influence, or affect the career, salary, or job of an employee is engaging in sexual harassment. Similarly, any employee who participates in deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome and interfere with work productivity is engaging in sexual harassment.

*Excerpted from U.S. Office of Personnel Management's Policy on Sexual Harassment.

D. Program Goals. The following are the goals of FmHA's Federal Women's Program:

(1) The equitable involvement of women in personnel management operations, i.e., serving on panels, boards and as Personnel Management Specialists, Directors, Training Officers, Classification Specialists, etc., which would permit them to be a part of the decision-making process in personnel management policy and practice, including recruitment programs, training, selection, placement, promotions, counseling, and career development.

(2) Proportional representation (proportional to their representation in the civilian labor force) of women in all occupations and at all grade levels.

E. Program Objectives. The following are the major objectives of FmHA's Federal Women's Program:

(1) Eradication of every form of sex discrimination from personnel policies and practices and working conditions.

(2) Utilization, to the fullest extent possible, of the present skills of women in the work force.

(3) Provision of equal opportunities for women to enhance their skills through career counseling, on-the-job training, upward mobility, workstudy programs, and other training measures so they may perform at their highest potential and advance in accordance with their abilities. This would involve an FWP budget with financial resources for training FWP Committee members, special events, information materials and miscellaneous expenses.

F. Management requirements.

(1) Insure that equal opportunity for women is an integral part of FmHA's overall equal employment opportunity program.

(2) Designate a Federal Women's Program Manager for the Agency, each State and the Finance Office.

(3) Arrange for newly designated FWPMs to receive formal training in the FWP within 120 days after designation. (The U.S. Office of Personnel Management offers FWPM training courses regularly at its National Headquarters and regional training centers.)

(4) Post permanently on official EEO posters the names, addresses, telephone numbers and photographs of the National and local FWPMs.

(5) Send a copy of the executed Memorandum of Understanding to the EEO Office, Attention: FWP Manager. (See Attachment No. 1.)

G. Selection and Designation of FWPMs.

(1) National FWPM. A full-time FWPM is selected by competitive procedure at the National level. The National FWPM has Agencywide responsibility for implementation of Farmers Home Administration's (FmHA) Federal Women's Program. The primary duty of the FWPM is to strive for the elimination of systemic and institutional barriers to the employment and advancement of all women and to focus top management's support on their needs. The full-time FWPM must meet qualification requirements published in CSC Handbook X-118.

(2) Field FWPMs. Field FWPMs are designated by the State Director and Assistant Administrator, Finance Office, with the concurrence of the FmHA Administrator or designee. A FWPM is designated for a term of three years, but cannot serve more than two consecutive terms. FWPM duties must be documented in

position descriptions as EEO Collateral Assignments. FWPM duties are a supplement to the duties and responsibilities of the FWPM's primary occupation. EEO collateral assignments have the following characteristics: (Revised 01-09-91, PN 152.)

- (a) The employee who receives the assignment must meet qualification requirements for EEO collateral assignments published in CSC Handbook X-118;
- (b) The EEO collateral assignment does not constitute the primary purpose for establishing or continuing the position;
- (c) For purposes of the EEO collateral assignment, the employee receives guidance and review, but not supervision, from an individual other than the regular supervisor (i.e., Deputy Equal Employment Opportunity Officer (DEEOO) who has overall EEO responsibility for the State or Finance Office);
- (d) The assignment does not constitute a grade controlling duty or responsibility; and
- (e) The assignment is not a primary duty of the position (it constitutes approximately 20% of the employee's work time).

H. Functions - Roles and Responsibilities.

(1) General. The FWP is a management program. The primary responsibility for its success, therefore, rests with top management. The FWPM is a member of top management's team and the FWPM's responsibility is to provide plans and solutions which managers and supervisors may implement to promote equal opportunity for women in FmHA.

(2) National Office FWPM. It is the role of the FWPM to serve as the principal advisor to key Agency officials on the special concerns of women employees and applicants, and to assure that women participate equally in Agency programs. Specifically, the FWPM:

- (a) Develops the policies and procedures for the Agency's Federal Women's Program.
- (b) Provides leadership continuity for field FWPMs in carrying out the mission of the FWPM and serves as the Agency's representative in consultation with women's organizations and groups concerned with the improvement of employment opportunities and advancement for women. This includes speaking, sponsoring workshops, attendance at conferences, conventions and participating in career days, job fairs, etc.

(c) Plans, coordinates, and sponsors a training program designed to sensitize managers and supervisors in regard to their responsibilities concerning equal opportunity for women.

(d) Plans and conducts studies of major problem areas, providing statistical profiles for effective use in evaluating program planning, goals and managing resources in the area of merit promotion, training, career development, recruitment and others that affect the enhancement of employment and career progress for women.

(3) Field FWPMs. FWPMs (collateral-duty) at the field level carry out the Agency's FWP in 46 States and the Finance Office, St. Louis, Missouri. (For current listing, see Attachment No. 3.)

(a) The duties of the field FWPMs are to advise the State Director and Director, Finance Office, on matters affecting the employment and advancement of women; maintain contact with community organizations for possible job referrals of women applicants; attend job fairs or other functions at local high schools, colleges and universities to obtain names of applicants; send recruitment literature to schools, community groups, and sponsor workshops, speakers' information booths at conferences, career days, etc., and other training programs; develop statistics, assess progress and keep the national FWPM informed of field activities affecting women and problem areas; advise employees, and disseminate to field employees information received from the National FWPM.

(b) Field FWPMs spend approximately 20 percent of their time on the FWP, and serve on appropriate EEO committees. To clarify the FWPM's duties, position descriptions should reflect collateral duties and time required to perform these duties. A copy of the Memorandum of Understanding between field FWPMs, supervisors, and State Directors and Director, Finance Office (DEEOO) should be signed and made a part of their Official Personnel File. (See Attachment No. 1)

(c) Field FWPMs must be able to function in their responsible roles without conflict of purpose. Because personnel office employees are involved in the processing of personnel actions affecting employees, it is inadvisable to assign FWPM and HEPM responsibilities to members of personnel office staffs. Positions which may pose a conflict of interest include Administrative Officer, Secretary to the State Director, Personnel Management Specialist, Personnel Assistant, and Personnel Clerk. Moreover, an employee should not be given multiple EEO assignments, e.g., FWPM and Hispanic Employment

Program Manager (HEPM), or FWPM and/or HEPM duties combined with EEO Counselor duties. Each EEO assignment requires time and individual attention, and if assigned to one person on a collateral basis, one of the assignments will receive inadequate attention.

I. Documentation of Duties - Field FWPMs.

(1) Federal Personnel Manual Letter No. 713-37 dated May 20, 1977, clarified position classification principles relating to documentation of EEO collateral duties in Official Position Descriptions. It discusses an approach to documenting conditions of assignments and appraising employee performance of collateral EEO assignments in a Memorandum of Understanding, and provides guidance for writing position descriptions of both full-time and collateral assignments for FWPMs and other employees with collateral EEO assignments.

(2) An amendment will be made to the FWPM's Official Position Description identifying the Deputy Equal Employment Opportunity Officer (State Director or Director, Finance Office) as the person responsible for guidance and review and evaluation of the FWPM's performance of duties. Only the DEEOO will sanction activities and agreed-upon goals and objectives of the FWP. The following language may be used as a guide in describing the duties and responsibilities of the collateral assignment of the FWPM:

Serves as Federal Women's Program Manager at the request of the State Director, or Director, Finance Office with the concurrence of the Agency Administrator. Advises the State Director or Director, Finance Office, on matters affecting the employment and advancement of women; maintains contact with community organizations for possible referrals of women applicants; attends job fairs or other functions at local high schools, colleges and universities to obtain names of applicants; attends women's training conferences and conventions; sends recruitment literature to schools and community groups; sponsors workshops, speaker's information booths and other training programs; keeps the Agency's National FWP Manager informed of field activities affecting women and problem areas; counsels employees upon request (but not act as EEO Counselor), and disseminates to field employees information received from the Agency's National FWP Manager.

J. Support services. Field FWPM's will be free from restraint, coercion, discrimination and reprisal, and will be given:

(1) Training and full managerial and supervisory support for execution of the FWP;

(2) sufficient time to promote the FWP and accomplish its goals and objectives;

(3) full support and interest of management in terms of cooperation, facilities, resources and time;

(4) clerical support when needed and access to personnel files upon request of the employee, and statistical information;

(5) travel funds by the State or Finance Office for training, recruitment and other activities related to the FWP; and

(6) funds for program needs including information, materials and supplies, such as films, magazines, books, periodicals and miscellaneous expenses.

K. Program evaluation. Field FWPMs will participate in the evaluation of EEO program progress against specific objectives by:

(1) Serving, as requested, as a member of EEO and/or personnel evaluation teams;

(2) providing the National FWPM periodic reports in writing, or by personal contact, of any problems or need for further guidance to implement a positive FWP.

Attachments: No. 1 Memorandum of Understanding
No. 2 Suggested Training Courses for Field FWPMs
No. 3 Field Federal Women's Program Managers
No. 4 FPM Letter 713-37 - Documenting EEO Collateral Duties
in Official Position Descriptions

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MEMORANDUM OF UNDERSTANDING

The purpose of this Memorandum is to ensure that no misunderstanding exists between the employee signatory below, employee's supervisor and the Deputy EEO Officer (State Director or Director, Finance Office), hereinafter referred to as Director, while performing additional duties as _____. *

It is understood and agreed that these additional duties may require approximately 20 percent of the employee's official time in the performance thereof.

It is further understood that while administrative supervision will remain the same as in the primary assignment when the employee is performing these additional duties, all guidance, review, and performance evaluation in the area of EEO assignments will be provided directly by the Director. The incumbent will periodically brief the Director on matters relating to successes and failures to assure accomplishment of EEO goals.

It is further understood that while performing these collateral duties the FWPM will notify the immediate supervisor before leaving primary assigned duties and will keep the supervisor informed of whereabouts and estimated time of return to primary duties.

It is further understood that all necessary absences away from the primary duty work location will be scheduled, as much as possible, in advance through immediate supervisor, and other necessary administrative approval will be obtained as appropriate.

It is further understood that in case of any disagreement whatsoever between the employee and immediate supervisor as to the priority of these collateral duties, the Director will resolve these differences to ensure a normal harmonious work relationship.

Acknowledgment and understanding of this memorandum is attested to by affixing my signature below. This Memorandum of Understanding is prepared in accordance with FPM Letter No. 713-37 dated May 20, 1977.

_____ NAME (Employee)	_____ Title, Service Grade	*IDENTIFY DESIGNATION(S)
_____ NAME (Supervisor)	_____ Title, Service Grade	_____ FWPM
_____ NAME (Deputy EEO Officer)	_____ Title, Service Grade	_____ HEPM

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Suggested Training Courses for Federal Women's Program Managers

Sponsored by Office of Personnel Management

The Federal Women's Program Seminar

Seminar: Career Women and Upward Mobility

Upward Mobility: Planning and Implementation

Upward Mobility: Analyzing Career Alternatives & Job Restructuring

Upward Mobility: Career Counseling Workshop

Affirmative Action Planning Workshop

Personnel Management for EEO Specialists

Basic Staffing and Placement

Basic Personnel Management

Equal Employment Opportunity

Position Management & Position Classification

Effective Briefing Techniques

Management of Time

FIELD FEDERAL WOMEN'S PROGRAM MANAGERS
FARMERS HOME ADMINISTRATION

ALABAMA

Ms. Mary Washburn
Federal Women's Program Manager
Farmers Home Administration
101 North Broadnax Street
County Courthouse
Dadeville, Alabama 36853
Phone: (Comm.) 205-825-7851

ALASKA

Ms. Sharon V. Wendt
Federal Women's Program Manager
Farmers Home Administration
Palmer Business Plaza
P.O. Box 1289
Palmer, Alaska 99645
Phone: (Comm.) 907-745-2176

ARIZONA

Ms. A. Joanne Berry
Federal Women's Program Manager
Farmers Home Administration
26 North MacDonald, Room 100
Mesa, Arizona 85201
Phone: (FTS) 261-4279

ARKANSAS

Ms. Cherry L. Smith
Federal Women's Program Manager
Farmers Home Administration
P.O. Box 2778
Little Rock, Arkansas 72203
Phone: (FTS) 740-6282

CALIFORNIA

Ms. R. Ellen Gorman
Federal Women's Program Manager
Farmers Home Administration
1551 Bernice Drive
Ceres, California 95307-4303

DELAWARE

Ms. Linda L. Simmons
Federal Women's Program Manager
Farmers Home Administration
Charles R. Brown Plaza
126 East High Street
Suite 5
Elkton, Maryland 21921
Phone: (Comm.) 301-032-4322

FLORIDA

Ms. Barbara F. Abate
Federal Women's Program Manager
Farmers Home Administration
Room 214, Federal Building
401 S.E. 1st Avenue
Gainesville, Florida 32602
Phone: (FTS) 946-7221

GEORGIA

Ms. Mary H. Griffin
Federal Women's Program Manager
Farmers Home Administration
c/o Tifton FmHA District Office
P.O. Box 1208
Tifton, Georgia 31794
Phone: (Comm.) 912-382-0273

HAWAII

Ms. Joise D. Wolchesky
Federal Women's Program Manager
Farmers Home Administration
Room 311, Federal Building
154 Waianuenue Avenue
Hilo, Hawaii 96720
Phone: (Comm.) 808-961-4781

Phone: (Comm.) 209-537-7620

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IDAHO

Ms. Doris Meuleman
Federal Women's Program Manager
Farmers Home Administration
Meridian Professional Plaza
870 North Linder, Suite D
Meridian, Idaho 83642
Phone: (Comm.) 208-888-3251

ILLINOIS

Ms. Shirly J. Lafontaine
Federal Women's Program Manager
Farmers Home Administration
Box 12, Route 3
Marshall, Illinois 62441
Phone: (Comm.) 217-826-8011

INDIANA

Ms. Jeanene Karn
Federal Women's Program Manager
Farmers Home Administration
5610 Crawfordsville Road, Suite 1700
Indianapolis, Indiana 46224
Phone: (Comm.) 317-248-4449

IOWA

Ms. Jane M. Ginapp
Federal Women's Program Manager
Farmers Home Administration
204 Federal Building
211 N. Delaware
Mason City, Iowa 50401
Phone: (Comm.) 515-423-3731
(FTS) 862-0126

KANSAS

Ms. Connie C. Blankenship
Federal Women's Program Manager
Farmers Home Administration
705 F Street
Box 368
Smith Center, Kansas 66967
Phone: (Comm.) 913-282-6618

KENTUCKY

Ms. Vickie Patterson
Federal Women's Program Manager
Farmers Home Administration
Route 7, Box 67
Shelbyville, Kentucky 40065
Phone: (Comm.) 502-633-0891

LOUISIANA

Ms. Alice Pharis
Federal Women's Program Manager
Farmers Home Administration
510 Main Street
Colfax, Louisiana 71417
Phone: (Comm.) 318-627-5015

MAINE

Ms. Lorrie D. Rines
Federal Women's Program Manager
Farmers Home Administration
18 Main Street
P.O. Box B
Newport, Maine 04953
Phone: (Comm.) 207-368-4394

MASSACHUSETTS

Ms. Vanessa Rivard
Federal Women's Program Manager
Farmers Home Administration
Post Office Building, Room 175
127 Social Street
Woonsocket, Rhode Island 02895
Phone: (Comm.) 401-765-5500

MICHIGAN

Ms. O. Mae Locke
Federal Women's Program Manager
Farmers Home Administration
1405 South Harrison Road
Room 209
East Lansing, Michigan 48823
Phone: (FTS) 374-6638

MINNESOTA

Ms. Sandra Craig
Federal Women's Program Manager
Farmers Home Administration
Room 252, Federal Courts Building
316 N Robert Street
St. Paul, Minnesota 55101
Phone: (FTS) 725-5842

MISSISSIPPI

Ms. Betty S. Kopf
Federal Women's Program Manager
Farmers Home Administration
P.O. Drawer 1028
Grenada, Mississippi 38901
Phone: (Comm.) 601-226-4724

MISSOURI

Ms. Anita J. Dunning
Federal Women's Program Manager
Farmers Home Administration
Scotland County Agricultural Building
Route 1, Box 139S
Memphis, Missouri 63555
Phone: (Comm.) 816-465-8517

MONTANA

Ms. Irene G. Daly
Federal Women's Program Manager
Farmers Home Administration
Federal Building
P.O. Box 850
Bozeman, Montana 59715
Phone: (Comm.) 406-587-6787

NEBRASKA

Ms. Jolene A. Kasper
Federal Women's Program Manager
Farmers Home Administration
4734 South 131st Street
Omaha, Nebraska 68137
Phone: (FTS) 864-4704

NEW JERSEY

Ms. Catherine P. Herbstzuber
Federal Women's Program Manager
Farmers Home Administration
Plaza One, Suite 305
Flemington, New Jersey 08822
Phone: (Comm.) 201-782-6700

NEW MEXICO

Ms. Denise L. Dawley
Federal Women's Program Manager
Farmers Home Administration
P.O. Box OQ
Socorro, New Mexico 87801
Phone: (Comm.) 505-835-1719

NEW YORK

Ms. Carol R. Chapman
Federal Women's Program Manager
Farmers Home Administration
337 Fairview Avenue
Hudson, New York 12534
Phone: (FTS) 562-7875

NORTH CAROLINA

Ms. Rose W. Matthews
Federal Women's Program Manager
Farmers Home Administration
310 New Bern Avenue, Room 525
Raleigh, North Carolina 27601
Phone: (FTS) 672-4640

OHIO

Ms. Linda Ayres
Federal Women's Program Manager
Farmers Home Administration
704 South Main Street
Georgetown, Ohio 45121
Phone: (Comm.) 513-378-6175

OKLAHOMA

Ms. Doris Morgan
Federal Women's Program Manager
Farmers Home Administration
Federal Building
Room 112, P.O. Box 248
Shawnee, Oklahoma 74802
Phone: (Comm.) 405-273-7970

OREGON

Ms. Gretchen Goodson
Federal Women's Program Manager
Farmers Home Administration
Room 1590, Federal Building
1220 SW Third Avenue
Portland, Oregon 97204
Phone: (FTS) 423-2733
(Comm.) 503-221-2733

PENNSYLVANIA

Ms. Barbara J. McMillen
Federal Women's Program Manager
Farmers Home Administration
938 St. Clair Way, Route 30
Greensburg, Pennsylvania 15601
Phone: (Comm.) 412-834-0396

PUERTO RICO

Ms. Frances Sterling
Federal Women's Program Manager
Farmers Home Administration
Colon Building, 2nd Floor
Munoz Rivera Street
P.O. Box 247
Barranquitas, Puerto Rico 00618
Phone: (FTS) 857-3940 or
857-4101

SOUTH CAROLINA

Ms. Mildred H. Thomason
Federal Women's Program Manager
Farmers Home Administration
Strom Thurmond Federal Building
Room 1007, 1835 Assembly Street
Columbia, South Carolina 29201
Phone: (FTS) 677-3726

SOUTH DAKOTA

Ms. Margaret E. Powell
Federal Women's Program Manager
Farmers Home Administration
P.O. Box 8085
Rapid City, South Dakota 57701
Phone: (FTS) 782-1454

TENNESSEE

Ms. Ann W. Wyatt
Federal Women's Program Manager
Farmers Home Administration
Room B-11, Federal Building
Clarksville, Tennessee 37040
Phone: (Comm.) 615-552-1555

TEXAS

Ms. Bessie Spencer
Federal Women's Program Manager
Farmers Home Administration
101 South Main, Federal Building
Suite 102
Temple, Texas 76501
Phone: (Comm.) 817-774-1305

UTAH

Ms. Julia Nelson
Federal Women's Program Manager
Farmers Home Administration
125 South State Street
Room 5438, Federal Building
Salt Lake City, Utah 84138
Phone: (Comm.) 801-524-3241

VERMONT

Ms. Judy L. Maher
Federal Women's Program Manager
Farmers Home Administration
2 Main Street, Abbott Building
P.O. Box 406
North Springfield, Vermont 05150
Phone: (Comm.) 802-886-2204

VIRGINIA

Ms. Lisa S. Hamilton
Federal Women's Program Manager
Farmers Home Administration
2312 West Beverly Street
Staunton, Virginia 24401
Phone: (Comm.) 703-885-8854

WASHINGTON

Ms. Deborah Davis Nunnally
Federal Women's Program Manager
Farmers Home Administration
P.O. Box 2427
Wenatchee, Washington 98801
Phone: (FTS) 390-0298

WEST VIRGINIA

Ms. Connie L. Hanlin
Federal Women's Program Manager
Farmers Home Administration
Morris Square Complex
603 Morris Street
Charleston, West Virginia 25301
Phone: (FTS) 930-5355
(Comm.) 304-347-5355

WISCONSIN

Ms. Joan C. Dorschner
Federal Women's Program Manager
Farmers Home Administration
1257 Main Street
Stevens Point, Wisconsin 54481
Phone: (FTS) 360-3886

WYOMING

Ms. Billie H. Hollenbeck
Federal Women's Program Manager
Farmers Home Administration
P.O. Box 4099
Sheridan, Wyoming 82801
Phone: (Comm.) 307-672-5828

FINANCE OFFICE

Ms. Kathy Dwiggin
Federal Women's Program Manager
Finance Office
Farmers Home Administration
1520 Market Street
St. Louis, Missouri 63103
Phone: (FTS) 279-4832

2045-X Exhibit C, Attachment No. 4 not automated see manual

Exhibit D - Part 2045, Subpart X - Equal Employment Opportunity
- Hispanic Employment Program

Table of Contents

- A. Purpose and Scope
- B. Legal Authority
- C. Equal Employment Opportunity (EEO) Policy
- D. Program Goals
- E. Program Objectives
- F. Management Requirements
- G. Selection and Designation of Hispanic Employment Program Managers
 - (1) General
 - (2) National Office HEPM
 - (3) Field HEPMS
- H. Functions - Roles and Responsibilities
 - (1) General
 - (2) National Office HEPM
 - (3) Field HEPMS
- I. Documentation of Duties - Field HEPMS
- J. Support Services
- K. Program Evaluation

ATTACHMENTS:

- No. 1 - Percentages of Hispanic Population by State
- No. 2 - Bilingual and Cultural Certification
- No. 3 - Suggested Training Courses for Field HEPMS
- No. 4 - Field Hispanic Employment Program Managers
- No. 5 - FPM Letter 713-41 - New Title: Hispanic Employment Program
Office

Exhibit D - Part 2045, Subpart X - Equal Employment Opportunity
- Hispanic Employment Program

A. Purpose and Scope. The purpose of this Exhibit is to set forth the policy and procedures for an Agencywide Hispanic Employment Program (HEP); provide guidelines and instructions to field managers (State Directors; Director, Finance Office; and other employees with supervisory and/or managerial responsibility) with regard to the HEP; and set forth the guidelines for the function of the Hispanic Employment Program Manager (HEPM) at the National and field levels. In scope, implementation of the HEP originates with top management officials and extends to those midlevel managers and supervisors Agencywide who are directly involved in hiring, training, promoting, and evaluating the performance of FmHA employees.

B. Legal Authority.

(1) Executive Order 11478, August 1969. (Integrated the Hispanic Employment Program (then Spanish Speaking Program) into the overall Federal Equal Employment Opportunity Program.)

(2) Public Law 92-261, March 1972. (Federal employees and agencies were placed under equal opportunity provisions of the Civil Rights Act of 1964 with regard to processing formal complaints of discrimination, affirmative action, upward mobility, program evaluation and training. The law requires that all personnel actions affecting employees or applicants shall be free from discrimination because of race, color, religion, sex, or national origin.)

(3) Additional authority and guidance on the Hispanic Employment Program appear in Federal Personnel Manual Letters (FPM) 713-18, 713-23, and 713-41. FPM Letter 713-18 directs Federal agencies to designate HEPMs who are aware of the employment problems of Hispanics and who are committed to carrying out the objectives of the Hispanic Employment Program. FPM Letter 713-23 directs Federal agencies to appoint full-time Managers in areas of high concentration of Hispanics, and part-time Managers in other instances. FPM Letter 713-41 changes the title of the Spanish Speaking Program to the Hispanic Employment Program. This change is more in accord with uniform terminology covering the same Spanishspeaking groups defined in the same manner as they were under the original title. The change in title does not preclude other essential services provided the Hispanic community.

C. Equal Employment Opportunity (EEO) Policy. It is the policy of the Department of Agriculture to prohibit discrimination and to ensure equal employment opportunity for all employees and applicants without regard to race, color, religion, sex, national origin, age or handicapping condition. In furtherance of this policy, it is the responsibility of the Agency to assure that the underrepresentation of Hispanics in the Agency's work force is addressed through an effective and ongoing recruitment and hiring effort;

and that Hispanic employees have the opportunity to achieve the best possible utilization of their skills. In addition, every effort will be made to give Hispanic employees the opportunity to avail themselves of any and all existing programs which lead to initial employment, advancement and the realization of their fullest potential in the Agency.

D. Program Goals. The following are the goals of FmHA's Hispanic Employment Program:

- (1) Proportional representation (proportional to the representation in the civilian labor force) of Hispanics in all occupations and at all grade levels.
- (2) Full participation of Hispanics as Managers/Supervisors in all of FmHA's programs, i.e., Farmer, Housing, Water and Waste, etc.
- (3) Employment of Hispanics in those areas served by the Agency which have a significant Spanish-speaking population.

E. Program Objectives. The following are the major objectives of FmHA's Hispanic Employment Program:

- (1) Eradication of every form of discrimination based on national origin from personnel policies and practices and working conditions.
- (2) Utilization, to the fullest extent possible, of the present skills of Hispanic employees in the work force.
- (3) Provisions of equal opportunities for Hispanics to enhance their skills through career counseling, on-the-job training, upward mobility, work-study programs, and other training measures so they may perform at their highest potential and advance in accordance with their abilities. This would involve an HEP budget with financial resources for training HEP committee members, special events, information materials and miscellaneous expenses.

F. Management Requirements.

- (1) Insure that equal opportunity for Hispanics is an integral part of FmHA's overall equal employment opportunity program.
- (2) Designate an HEPM for the Agency, each State and the Finance Office.
- (3) Arrange for newly designated HEPM's to receive formal training in the HEP within 120 days after designation. (The U.S. Office of Personnel Management offers HEPM training courses at its National Headquarters and regional training centers.)

(4) Post permanently on official EEO posters the names, addresses, telephone numbers, and photographs of the National and local HEPMs.

(5) Send a copy of the executed Memorandum of Understanding to the EEO Office, Attention: HEP Manager. (See Exhibit C, Attachment No. 1.)

G. Selection and Designation of HEPMs.

(1) General. Selection and designation of the National HEPM is contained in paragraph (2) of this paragraph. Selection and designation of Field HEPMs is contained in paragraph (3) of this paragraph. However, in those States with less than one percent Hispanic population, the selection and designation official will have the option of combining the collateral duties of the Federal Women's Program Manager (FWPM) and the Hispanic Employment Program Manager in lieu of designating separate FWP and HEP Managers. It is pertinent, therefore, that the designated employee be familiar with and understand the Hispanic communities lifestyles, customs, traditions, aspirations, and economic and social problems in addition to being able to communicate, establish rapport and work harmoniously and efficiently with Hispanic groups.

(2) National Office HEPM. A full-time HEPM who is bilingual and bicultural is selected by competitive procedure at the National level. (See Bilingual and Cultural Certification Attachment No. 2.) The National HEPM has Agencywide responsibility for implementation of Farmers Home Administration's (FmHA) Hispanic Employment Program. The primary duty of the HEPM is to bring about measurable progress in the representation of Hispanics in the Agency's work force at all grade levels and in all occupations, and to assist top management in meeting this goal. The full-time HEPM must meet qualification requirements published in Civil Service Commission (CSC) Handbook X-118.

(3) Field HEPMs. Field HEPMs are designated from a list of Hispanic nominees submitted to the National Office by the State Director and Assistant Administrator, Finance Office, with the concurrence of the FmHA Administrator or designee to serve for a term of three years. An HEPM may not be designated for more than two consecutive terms. HEPM's duties must be documented in position descriptions as EEO Collateral Assignments. Every effort should be made to designate a Field HEPM who is bilingual and bicultural in those States with more than one percent of Hispanics in the population. HEPM duties are a supplement to the duties and responsibilities of the HEPM's primary occupation. EEO collateral assignments have the following characteristics: (Revised 01-09-91, PN 152.)

- (a) The employee who receives the assignment must meet qualification requirements for EEO collateral assignments published in CSC Handbook X-118;
- (b) The EEO collateral assignment does not constitute the primary purpose for establishing or continuing the position;
- (c) For purposes of the EEO collateral assignment, the employee receives guidance and review, but not supervision, from an individual other than the regular supervisor (i.e., Deputy Equal Employment Opportunity Officer (DEEOO) who has overall EEO responsibility for the State or Finance Office);
- (d) The assignment does not constitute a grade controlling duty or responsibility; and
- (e) The assignment is not a primary duty of the position (it constitutes approximately 20% of the employee's work time).

H. Functions - Roles and Responsibilities

- (1) General. The HEP is a management program. The primary responsibility for its success, therefore, rests with top management. The HEPM is a member of top management's team and the HEPM's responsibility is to provide plans and solutions which manager and supervisor may implement to promote equal opportunity for Hispanics in FmHA.
- (2) National Office HEPM. It is the role of the HEPM to serve as the focal point for implementation of the HEP within FmHA as it relates to employment; to provide leadership continuity, advice and guidance to field HEPMs; to provide for initiation, coordination, and implementation of an affirmative action program for Hispanic employees by conducting a program which includes the full range of personnel activities (recruitment, training, promotion, evaluation, and related personnel management functions) and housing and education aspects of the HEP. Additionally, the HEPM:
 - (a) Provides leadership, advice, and technical assistance to Agency field and National Office supervisors on their responsibilities in the HEP.
 - (b) Serves as principal resource person and staff advisor on unique concerns and problems related to equal opportunities for Hispanic employees in development of HEP plans so that specific actions directed at implementing the HEP are included. Reviews current and proposed legislation and EEO plans and recommends changes to remove any discriminating elements against Hispanic employees.

(c) Participates in establishing and maintaining effective relationships with organizations and groups representing the Hispanic community. Obtains their cooperation and advice. Maintains close liaison with HEP staffs in other agencies for mutual exchange of ideas, advice, and information.

(3) Field HEPMs. HEPMs (collateral-duty) at the field level carry out the Agency's HEP in 46 States and the Finance Office, St. Louis, Missouri. (For current listing, see Attachment No. 4.)

(a) The duties of the field HEPMs are to advise the State Director and Director, Finance Office on matters affecting the employment and advancement of Hispanics; maintain contact with community organizations for possible job referrals of Hispanic applicants; attend job fairs or other functions at local high schools, colleges and universities to obtain names of applicants; send recruitment literature to schools, community groups, and sponsor workshops, speakers' information booths at conferences, career days, etc., and other training programs; develop statistics, assess progress and keep the Agency's National HEPM informed of field activities affecting Hispanics and problem areas; advise employees, and disseminate to field employees information received from the Agency's National HEPM.

(b) Field HEPMs spend approximately 20% of their time on the HEP and serve on appropriate EEO committees. To clarify the HEPM's duties, position descriptions must reflect collateral duties and time required to perform these duties. A copy of the Memorandum of Understanding between field HEPMs, supervisors and State Directors and Director, Finance Office (Deputy Equal Employment Opportunity Officers) should be signed and made a part of their Official Personnel File. (See Exhibit C, Attachment No. 1.)

(c) Field HEPMs must be able to function in their responsible roles without conflict of purpose. Because personnel office employees are involved in the processing of personnel actions affecting employees, it is inadvisable to assign FWPM and HEPM responsibilities to members of personnel office staffs. Positions which may pose a conflict of interest include Administrative Officer, Secretary to the State Director, Personnel Management Specialist Personnel Assistant and Personnel Clerk. Moreover, an employee should not be given multiple EEO assignments, e.g., HEPM and Federal Women's Program Manager (FWPM), or HEPM and/or FWPM duties combined with EEO Counselor's duties.* Each EEO assignment requires time and individual attention, and if assigned to one person on a collateral basis, one of the assignments will receive inadequate attention.

*Excepted in those States with less than one percent Hispanic population (See Attachment No. 1).

I. Documentation of Duties - Field HEPMs.

(1) Federal Personnel Manual Letter No. 713-37 dated May 20, 1977, clarified position classification principles relating to documentation of EEO collateral duties in Official Position Descriptions. It discusses an approach to documenting conditions of assignments and appraising employee performance of collateral EEO assignments in a Memorandum of Understanding, and provides guidance for writing position descriptions of both full-time and collateral assignments for Hispanic Employment Program Managers, and other EEO personnel with collateral EEO assignments. (See Exhibit C, Attachment No. 4.)

(2) An amendment will be made to the HEPM's Official Position Description identifying the DEEOO (State Director or Director, Finance Office) as the person responsible for guidance and review and evaluation of the HEPM's performance of duties. Only the DEEOO will sanction activities and agreed-upon goals and objectives of the HEP. The following language may be used as a guide in describing the duties and responsibilities of the collateral assignment of the HEPM:

Serves as Hispanic Employment Program Manager at the request of the State Director or Director, Finance Office, with the concurrence of the Agency Administrator. Advises the State Director or Director, Finance Office, on matters affecting the employment and advancement of Hispanics; maintains contact with Hispanic community organizations for possible referrals of applicants; attends job fairs or other functions at local high schools, colleges and universities to obtain names of applicants; sends recruitment literature to schools and community groups; sponsors workshops, speaker's information booths and other training programs; keeps the Agency's National HEP Manager informed of field activities affecting Hispanic problem areas; counsels employees upon request (but not act as EEO Counselor); and disseminates to field employees information received from the Agency's National HEP Manager.

J. Support Services. Field HEPMs will be free from restraint, coercion, discrimination, and reprisal, and will be given:

- (1) Training and full managerial and supervisory support for execution of the HEP;
- (2) sufficient time to promote the HEP and accomplish its goals and objectives;
- (3) full support and interest of management in terms of cooperation, facilities, resources, and time;

(4) clerical support when needed and access to personnel files upon request of the employee and statistical information.

(5) travel funds by the State or Finance Office for training, recruitment, and other activities related to the HEP; and

(6) funds for program needs including information materials and supplies, such as films, magazines, books, periodicals and miscellaneous expenses.

K. Program Evaluation. Field HEPMs will participate in the evaluation of EEO program progress against specific objectives by:

(1) Serving, as requested, as a member of EEO and/or personnel evaluation teams;

(2) providing the National HEPM periodic reports as requested in writing or by personal contact, of any problems or need for further guidance to implement a positive HEP.

ATTACHMENTS:

- No. 1 - Percentages of Hispanic Population by State
- No. 2 - Bilingual and Cultural Certification
- No. 3 - Suggested Training Courses for Field HEPMs
- No. 4 - Field Hispanic Employment Program Managers
- No. 5 - FPM Letter 713-41 - New Title: Hispanic Employment Program Office

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Percentages of Hispanic Population by State*

Alabama	0.7
Alaska	1.9
Arizona	14.4
Arkansas	0.6
California	17.2
Colorado	9.6
Delaware	1.1
DC/Maryland	4.7
Florida	9.9
Georgia	0.9
Hawaii	5.8
Idaho	3.7
Illinois	5.0
Indiana	1.3
Iowa	0.7
Kansas	2.3
Kentucky	0.5
Louisiana	2.3
Maine	0.4
Massachusetts	1.7
Connecticut	2.9
Rhode Island	1.8
Michigan	1.4
Minnesota	0.6
Mississippi	0.8
Missouri	0.9
Montana	1.0
Nebraska	1.6
New Jersey	5.9
New Mexico	33.5
New York	7.7
North Carolina	0.7
North Dakota	0.4
Ohio	0.9
Oklahoma	1.6
Oregon	2.3
Pennsylvania	1.0
South Carolina	0.9
South Dakota	0.4
Tennessee	0.6
Texas	17.6
Utah	3.9
Nevada	6.3
Vermont	0.6
New Hampshire	0.5

Virginia	1.4
Washington	2.5
West Virginia	0.6
Wisconsin	1.1
Wyoming	4.5
Finance Office (SMSA)	0.8

*1980 Census

SUBJECT: Hispanic Employment Program
(Bilingual and Cultural Certification)

It is the policy of the Farmers Home Administration (FmHA) to implement the Bilingual/Cultural Certification Program nationwide. This directive is intended to assist the National, State, District and County offices in developing a program using bilingual and cultural certification as a tool for the recruitment and employment of Hispanics.

A. Purpose and Scope. This directive outlines procedures for implementing the Bilingual/Cultural Certification Program throughout Farmers Home Administration the National Office, State, District and County offices. In scope, the implementation of the Bilingual and Cultural Certification process originates with the Administrator and will be implemented by those top management, midlevel managers and supervisors who are directly involved in hiring, training, promoting and evaluating the performance of FmHA employees.

B. Legal Authority.

The legal authorities for this directive are derived from Secretary Bergland's policy statement on Equal Employment Opportunity of May 21, 1980; Federal Personnel Manual (FPM) Letter 720-2 (Federal Equal Opportunity Recruitment Program); FPM Letter 332-18 (Bilingual and Cultural Certification).

C. Bilingual and Cultural Justification.

1. Bilingual Justification. In certain job situations, bilingual ability would significantly enhance an employee's performance on the job. This would occur, for example, where an FmHA employee interacts with a segment of the public where English is a second language rather than the primary language. In this instance, employees with bilingual ability are more effective in dealing with individual clients as well as enhancing the employee's effectiveness in gaining the confidence, cooperation, and understanding of a bilingual group in support of our Agency and its programs.

The job analysis procedures, used in determining whether a candidate with a bilingual ability is better qualified for a particular position, is an appropriate quality ranking factor to include with a certification request.

2. Cultural Justification. Cultural justification refers to two basic knowledges and abilities: (a) familiarity, understanding, and sensitivity of a cultural group's lifestyle, customs, tradition, aspirations, economic and social problems, and (b) an ability to communicate,

establish rapport, and work harmoniously and effectively with group members. Typical knowledges and abilities which may be used as the bases for cultural justification include knowledge of Hispanic tradition of joint decision making; knowledge of Hispanic family customs; and knowledge of Hispanic perceptions of organization and authority. Either or both of these factors can be used as quality ranking factors when an agency's job analysis shows that they represent knowledge, skills and abilities (KSA's) which are likely to contribute to superior performance in the particular position.

D. Procedures. A Bilingual and Cultural Certification request must indicate that a candidate who possesses bilingual/cultural knowledges and abilities will be better qualified for a particular position. Therefore, each request should be supported by:

1. A job analysis which indicates that these knowledges and/or abilities would enhance performance. The nature of the Agency's mission, nature of the occupation, and nature of public contacts should be considered when conducting the job analysis;
2. A position description which reflects the bilingual/cultural needs, and
3. Supplemental information necessary to support the need for bilingual or cultural certification including documentation of the percentage and number of clientele requiring assistance or contacts who are of a particular culture, and an estimate of the amount of time the incumbent would be expected to utilize with a particular group. Cultural factors are best identified as quality ranking factors.
4. Requests for individual certification should be submitted to local Office of Personnel Management (OPM) offices. In those instances where a particular position requires National Office approval, requests should be submitted to Director, Personnel Division.

E. FmHA Agencywide Responsibilities.

1. All State, District and County offices, particularly those which have not previously used bilingual/cultural certification, are encouraged to consider the advantages and benefits of making the maximum possible use of this flexible personnel management technique.
2. In order to utilize this technique effectively, all FmHA offices are requested to analyze their occupations to identify those which may best lend themselves to bilingual/cultural certification. Certain geographical areas including but not limited to the Southwest States,

and various United States ports of entry, such as New York and Miami, Florida, are areas with a high potential for bilingual/cultural certification.

3. All FmHA offices are encouraged to use internal recruitment methods in order to tap in-house bilingual/cultural resources. Bilingual employees in lower grade positions may prove to be particularly good recruiting sources.

Administrator

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Suggested Training Courses for Hispanic Employment Program Managers

Sponsored by Office of Personnel Management

The Hispanic Employment Program Workshop Upward Mobility:

Planning and Implementation
Analyzing Career Alternatives and Job Restructuring
Career Counseling Workshop

Affirmative Action Planning Workshop

Personnel Management for EEO Specialists

Basic Staffing and Placement

Basic Personnel Management

Equal Employment Opportunity

Position Management and Classification

Effective Briefing Techniques

Management of Time

HISPANIC EMPLOYMENT PROGRAM MANAGERS

ALASKA

Mr. Ronald W. Abbott
Farmers Home Administration
P.O. Box 1289
Palmer, Alaska 99645
Telephone: Comm. (907) 745-2176

ARIZONA

Mr. Claude Jackson
Farmers Home Administration
26 North MacDonald
Mesa, Arizona 85201
Telephone: FTS 261-4279

ARKANSAS

Ms. Cherry L. Smith
Farmers Home Administration
P.O. Box 2778
Little Rock, Arkansas 72203
Telephone: FTS 740-6282

CALIFORNIA

Mr. Gustavo Cairo, Jr.
Farmers Home Administration
635 Sanborn Place, Suite 24
Salinas, California 93901-4533
Telephone: Comm: (408) 757-5294

COLORADO

Ms. Anita Balderas
Farmers Home Administration
60 South 27th Avenue
Brighton, Colorado 80601
Telephone: Comm: (303) 659-5206

DELAWARE

Maryland

Ms. Eileen Campbell-Gracia
Farmers Home Administration
116 South Boulevard
Salisbury, Maryland 21801
Telephone: Comm. (301) 546-0786

FLORIDA

Mr. Eric D. Colon
Farmers Home Administration
222 South Commerce Street
Sebring, Florida 33870
Telephone: Comm. (318) 382-2184

IDAHO

Ms. Letty D. Percifield
Farmers Home Administration
Room 429, Federal Building
304 N. Eighth Street
Boise, Idaho 83702
Telephone: Comm. (208) 334-1301

KANSAS

Mr. Lee H. Ohlmeier
Farmers Home Administration
Farm Office Building
900 W. Highway 50 Bypass
Dodge City, Kansas 67801
Telephone: Comm. (316) 225-4258

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MICHIGAN

Mr. James Trumbell
Farmers Home Administration
Room 209
1405 South Harrison Road
East Lansing, Michigan 48823
Telephone: FTS 374-6642

NEW JERSEY

Mr. Samuel Blanco
Farmers Home Administration
Mini Mall, Sicklerville Road
Sicklerville, New Jersey 08081
Telephone: Comm: (609) 728-8656

NEW MEXICO

Ms. Helen V. Fierro
Farmers Home Administration
Room 3414, Federal Building
517 Gold Avenue, S.W.
Albuquerque, New Mexico 87102
Telephone: FTS 474-2462

NEW YORK

Mr. Carlos Rodriguez
Farmers Home Administration
465 Broad Street
Salamanca, New York 14779
Telephone: Comm: (716) 945-5240

NORTH CAROLINA

Ms. Leolia Spaugh
Farmers Home Administration
Room 525
310 New Bern Avenue
Raleigh, North Carolina 27601
Telephone: FTS 672-4640

OREGON

Ms. Maria Tavera
Farmers Home Administration
Federal Building
256 Warner Milne Road
Oregon City, Oregon 97045
Telephone: Comm. (503) 655-4015

TEXAS

Mr. Francisco Valentine, Jr.
Farmers Home Administration
119 South Main
Caldwell, Texas 77836
Telephone: Comm. (409) 567-7041

UTAH

Ms. Sylvia Nieto
Farmers Home Administration
75 South 1st East
Tremonton, Utah 84337
Telephone: Comm. (801) 257-5404

WASHINGTON

Ms. Trinidad Cuello
Farmers Home Administration
1250 Basin Street, S.W.
Ephrata, Washington 98823
Telephone: FTS 446-4385

WISCONSIN

Mr. Chester Ligons
Farmers Home Administration
410 Milwaukee Street
Kewaunee, Wisconsin 54216
Telephone: Comm. (414) 388-4005

WYOMING

Mr. Arthur E. Hawkinson, Jr.
Farmers Home Administration
P.O. Box 820
Casper, Wyoming 82602
Telephone: FTS 328-5306

FINANCE OFFICE

Mr. William Verdin
Farmers Home Administration
1520 Market Street
St. Louis, Missouri 63103
Telephone: FTS 279-4581

2045-X Exhibit D, Attachment No. 5 not automated see manual

Equal Employment Opportunity (EEO) Counseling Program

Table of Contents

- A. Purpose and scope.
- B. Legal authority.
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- E. Nomination and designation of collateral duty EEO counselors.
- F. Selection of EEO counselors.
- G. Documentation of duties.
- H. Guidelines for EEO counselors.
- I. Management support.
- J. Training EEO counselors.
- K. Conflict of interest.

Attachments:

- 1 - Sample - EEO Counselor's Report
- 2 - Notice of Right to File a Formal Complaint
- 3 - No-Fault Settlement Agreement

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EEO Counseling Program

A. Purpose and scope. The purpose of this exhibit is to set forth policy and procedures for an agencywide EEO counseling program; provide guidelines and instructions to field managers (State Directors; Assistant Administrator, Finance Office; and other employees with supervisory and/or managerial responsibilities) with regard to the EEO counseling program; and to set forth guidelines for the function of the EEO counselor at the National and field levels. In scope, implementation of an effective EEO counseling program is the responsibility of top management officials and extends to those mid-level managers and supervisors, agencywide, who are directly involved in hiring, training, promoting and evaluating the performance of the Farmers Home Administration (FmHA) employees.

B. Legal authority.

(1) Executive Order 11472, August 1969. (Requires Federal agencies to provide systems for consideration of complaints of discrimination including access to counseling for employees who feel aggrieved, and to encourage the resolution of employee problems on an informal basis.)

(2) Public Law 92-261, March 1972. (Federal employees and Agencies were placed under the EEO provisions of the Civil Rights Act of 1964, with regard to processing formal complaints of discrimination, affirmative action, career enhancement, and EEO program evaluation and training. The law requires that all personnel actions affecting employees or applicants shall be free from discrimination because of race, color, religion, sex, or national origin. The law specifically gives employees or applicants the right to file a civil action in an appropriate Federal District Court, in which the Secretary of Agriculture will be the defendant, after 180 days when there has been no final decision on a formal complaint, and within 30 days after receipt of a final decision when the employee or applicant is not satisfied with the final Agency decision.)

(3) Title 29 of the Code of Federal Regulations (CFR), Part 1614. (Section 1614.102 requires Federal Agencies to designate as many EEO counselors as may be necessary to assist the Head of the Agency to carry out its EEO program in all organizational units and locations of the Agency. Section 1614.105 requires an aggrieved person who believes that he/she has been discriminated against to consult with an EEO counselor to try to resolve the matter; requires the EEO counselor to make whatever inquiries are necessary into the matter; to seek a resolution to the matter on an informal basis; and to counsel the aggrieved person concerning the issues in the matter.)

C. EEO policy.

(1) General. It is the policy of the U.S. Department of Agriculture (USDA) to prohibit discrimination and to ensure equal opportunity for all employees and applicants without regard to race, color, religion, sex, national origin, age, or handicapping condition. In furtherance of this policy, it is the responsibility of the Agency to assure that all employees and applicants are accorded the right to have their allegations of discrimination against the Agency considered under established discrimination complaint processing regulations for the purpose of achieving informal resolution or a formal disposition.

(2) Freedom from reprisal.

files a complaint or otherwise
manner in the complaint process,
witnesses, representatives, and
be free from restraint,
coercion, discrimination, or reprisal at
processing of the complaint or

(a) Any person who
participates in any
including counselors,
investigators; shall
interference,
any stage of the
thereafter.

who are EEO Officials, EEO officials having responsibility for of discrimination shall be free interference, coercion, discrimination, stage in the presentation and complaint, including the counseling thereafter. Any such officials or that they have been subjected to interference, coercion or reprisal because of presentation and/or processing of a complaint of discrimination. EEO allegations of discrimination must a formal complaint.

(b) Agency employees Counselors or other processing complaints from restraint, or reprisal at any processing of a stage, or any time employees who believe restraint, involvement in the complaint may file a counseling on such precede the filing of

D. Management requirements.

- (1) Implement an EEO counseling program and assure that it is an integral part of the FmHA overall EEO program.
- (2) Appoint a full-time EEO counselor(s) to provide guidance to EEO counselors.
- (3) Nominate and designate an EEO counselor for the National Office; nominate and designate EEO counselor(s) for each counselor region.
- (4) Arrange for newly designated EEO counselors to be trained after designation.
- (5) Post permanently on official EEO posters the name, address, and telephone number of EEO counselors.

E. Nomination and designation of full-time and collateral duty EEO counselors.

- (1) Full-time EEO counselor(s). One or more full-time EEO counselor(s) will be selected by the Director, Equal Opportunity Staff (EOS). The full-time EEO counselor(s) will serve as expert counselor, providing collateral duty EEO counselors with technical guidance and assistance on the informal complaint process, mediation, and personnel issues.

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(2) National Office EEO counselor. One or more EEO counselors who are employees in the National Office, Washington, D.C., is nominated by the Director, EOS. The nominee's name is submitted to the Administrator who has authority to designate EEO counselors. The National Office EEO counselor(s) serves for a term of three (3) years and may not be designated for more than two (2) consecutive terms. EEO counseling duties must be documented in the position description of the designee, and the designee must meet qualification requirements for EEO Collateral Assignments published in the Office of Personnel Management (OPM) Handbook X-118, and selection criteria specified in the Departmental Personnel Manual (DPM) Chapter 1614.

(3) Field EEO counselors.

counselors are nominated by the State Administrator, Finance Office, to Authority to designate field EEO the Administrator. They serve for years and may not be designated for consecutive terms. Field EEO as EEO counselor for applicants and for applicants and employees of the USDA. Field EEO counselors may of their time on EEO counseling counseling duties must be documented in as EEO Collateral Assignments and qualification requirements published and selection criteria specified Field EEO counselors will be sufficient numbers to handle the in FmHA.

Counselors must be able to function in roles without conflict of purpose. Office employees are involved in the personnel actions affecting employees, it

(a) Field EEO
Director and Assistant
the Administrator.
counselors rests with
a term of three (3)
more than two (2)
counselors may serve
employees of FmHA, and
any other Agency of
spend up to 20 percent
activities. EEO
position descriptions
designees must meet
in OPM Handbook X-118,
in DPM Chapter 1614.
designated in
counseling work load

(b) Field EEO
their responsible
Because Personnel
processing of

assign EEO counselor responsibilities
personnel office staffs. Positions which
interest include Administrative
the State Director and Assistant
Office; Personnel Management
Assistants; and Personnel Clerks.

is inadvisable to
to members of
may pose a conflict of
Officers; Secretary to
Administrator, Finance
Specialists; Personnel

F. Selection of EEO counselors. The selection of employees who are best able to carry out the responsibility of the EEO counselor is critical to the successful operation of the EEO counseling program and the resolution of complaints of discrimination at the informal stage of the complaint process. In nominating EEO counselors, it is incumbent upon the nominating officials to seek out employees with the following:

- | | |
|---------------------------------------|----------------------------|
| between contending parties. | (1) Skill in mediating |
| resolutions to problems. | (2) Ability to suggest |
| communicate and deal effectively with | (3) Ability to |
| the organization, from top | persons at all levels of |
| support employees. | management to lower-graded |
| to fair and impartial treatment of | (4) Personal commitment |
| evaluating, analyzing facts and | others. |
| valid conclusions. | (5) Skill in assessing, |
| by locating and obtaining | situations, and drawing |
| information. | (6) Skill in fact-finding |
| clear and concise narrative reports. | necessary documentary |
| the basic goals of Civil Rights | (7) Skill in writing |
| the knowledge of EEO complaint | (8) Ability to understand |
| the knowledge of Federal personnel | and Equal Opportunity. |
| procedures. | (9) Ability to acquire |
| | procedures. |
| | (10) Ability to acquire |
| | management principles and |

G. Documentation of duties. An amendment will be made to the EEO counselor's position description identifying the full-time EEO counselor(s) in the National Office as the person(s) responsible for guidance to the EEO counselor. The following language may be used as a guide in describing the duties and responsibilities of the collateral assignment:

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"Serves as EEO counselor at the request of the Administrator. Counsels aggrieved persons in the informal resolution phase of the EEO complaint process. Attempts informal resolutions by fact-finding, and by consultation with the aggrieved person, appropriate management officials and other persons having information bearing on the alleged discrimination. Keeps a record of his/her counseling activities so as to periodically brief the full-time EEO counselor(s) on those activities. Advises the aggrieved person of his/her rights should informal resolution fail and provides a written report to the full-time EEO counselor(s) if a formal complaint of discrimination is filed.

H. Guidelines for EEO Counselors.

(1) Meeting with the aggrieved person. EEO counseling begins when an employee (or applicant) contacts an EEO counselor within 45 days of an alleged discriminatory act. Where walk-in counseling is possible, the problem may be fully discussed when the employee first contacts the counselor. In other cases, the employee may contact the EEO counselor and ask to talk about the problem at a particular time. When this happens, the EEO counselor should set a definite time and place, convenient for the employee, for the first counseling session. The employee should be informed of his/her right to have a representative present at all counseling sessions, including the first one.

(a) At the initial counseling session, EEO counselors must advise individuals in writing of their rights and responsibilities and that only the matter(s) raised in pre-complaint counseling (or issues like or related to issues raised in pre-complaint counseling) may be alleged in a subsequent complaint filed with the Department. EEO counselors must advise individuals of their duty to keep the Agency and the Department informed of their current address. If the aggrieved person informs the EEO counselor that he/she wishes to file a class complaint, the EEO counselor shall explain the class complaint procedures and the responsibilities of a class agent.

should assure the employee that
be kept in confidence unless the
counselor permission to use
serves to protect the identity of an
discuss a problem but who does not
management directed to him/her.
EEO counselor should carefully
limitations an obligation to withhold the
impose on the EEO counselor during

should explain that once the
formal stage, the complaint file,
shared with those who are involved
This includes the EEO officer
officials. The identity of the aggrieved
confidential in the formal

contacts an EEO counselor
age discrimination, the EEO
the person aware of two important

choose to file a formal
administrative complaint

bypass the administrative
Part 1614 and file a civil
an appropriate U.S. District
giving the Equal Employment
Commission (EEOC) not less than 30 days

(b) The EEO counselor
his/her identity will
employee gives the EEO
his/her name. This
employee who wants to
want the attention of
At the same time, the
explain any
employee's name might
inquiry.

(c) The EEO counselor
complaint reaches the
or part of it, may be
and need access to it.
and Agency EEO
person does not remain
complaint process.

(d) When a person
with a complaint of
counselor must make
options:

(i) The person may
complaint under the
process; and

(ii) The person may
complaint process in
action directly in
Court after first
Opportunity

file such action. Such notice
180 days after the date of the
discrimination. The notice may be mailed
at the following address:

Federal Operations
Sector Programs
19848
D.C. 20036

notice of intent to
must be filed within
alleged
to EEOC Headquarters

EEOC
Office of
Federal
P.O. Box
Washington,

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limitations in ADEA cases is applied by the courts, an wishing to bypass the process should initiate the civil possible after the explanation of period which follows the notice

employee or applicant has named identified an individual who is a current responsible for an alleged act of (hereafter referred to as the responding the EEO counselor must solicit the management official unless the otherwise obtains and provides information person which exonerates the responding the clear satisfaction of that Preliminary to the discussion of the responding management official, the EEO advise the individual orally, either in telephone, of the nature of the matter counselor wishes to discuss, the name of (unless confidentiality has been aggrieved person), the fact that the named as responsible for an alleged and of the fact that any by an EEO counselor is permitted to present during the counseling interview with a responding the EEO counselor should inform the

Since the statute of not consistently aggrieved person administrative action as soon as the 30-day waiting of intent to sue.

(e) When an aggrieved or otherwise employee as being discrimination management official), view of the responding EEO counselor to the aggrieved management official to aggrieved person. matter with the counselor should person or by which the EEO the aggrieved person requested by the individual has been act of discrimination, individual contacted have a representative interview. During an management official,

nature of the allegations made should summarize his/her response report (Attachment 1 of this responding management official wishes, memorandum of record concerning the to the EEO counselor for enclosure to the EEO counselor's report exhibit).

individual of the concerning him/her and in the EEO counselor's exhibit). If the he/she may prepare a meeting and provide it inclusion as an (Attachment 1 of this

(2) Assessing the situation.

will generally be the immediate cause for the employee to come to an EEO counselor, but the problem frequently occurs the result of many occurrences culminating in an incident which motivates the employee to seek a remedy for the situation.

Although the cause of employee problems are myriad, the matters most frequently called to the attention of EEO counselors include: failure to be promoted or to be considered for promotion; failure to be selected for training; disciplinary action; or harassment by supervisors or others.

(b) The EEO counselor should listen attentively, attempt to win the employee's confidence, and maintain an atmosphere which facilitates communication. The EEO counselor should not stop the employee from talking about the problem, even if the problem does not appear to be a matter under the purview of the discrimination complaint regulations. After the employee has explained his/her problem, the EEO counselor should determine what to do.

(c) If the problem clearly does not involve an allegation of discrimination based on race, color, religion, sex, national origin, age, or handicapping condition, the EEO counselor should direct the employee to proper channels for resolution of the problem. for example, an employee says that he/she was denied training because of non-merit factors other than race, color, religion, sex, national origin, age, or

condition, the EEO counselor should inform
right to file a grievance under the
system and advise him/her where to

handicapping
the employee of the
Agency grievance
file.

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clearly involves an allegation of on race, color, religion, sex, or handicapping condition, the EEO the details as the employee sees employee that appropriate and that the problem will be later time. Even if the EEO whether the problem is within the discrimination complaint process, he/she employee the initial interview. In employee has explained his/her counselor should check with the full- before he/she begins making

(3) Making inquiries. After the initial interview with the employee, the EEO counselor should determine what facts are needed to resolve the issues the employee raised during the discussion of the problem. The EEO counselor should then attempt to gather these facts through interviews with Agency officials, supervisors and other employees, and through examination of pertinent records and instructional material. Where necessary for a complete inquiry, the EEO counselor should review personnel records of the employee who has come for counseling as well as those of other persons who are directly concerned with the matter in question.

counselor's interviews with the employee's associates and others should be conducted sworn testimony or extensive informal interviews and record confused with the kind of in-depth made by a trained investigator discrimination complaint procedures. To regarding his/her role, the EEO using the word "investigation"

(d) If the problem discrimination based national origin, age, counselor should get them, then advise the inquiries will be made discussed further at a counselor questions purview of the should not deny the such cases, after the problem, the EEO time EEO counselor(s) inquiries.

(a) The EEO supervisor(s), informally without documentation. The reviews should not be investigation that is under formal avoid any confusion counselor should avoid

the employee or other persons.

should develop a good working
Personnel Office staff, since many of
of the information needed to
located in the Personnel Office.

during interviews with

(b) The EEO counselor
relationship with
the records and much
resolve EEO issues are

(4) Attempting informal resolution. When the EEO counselor believes that there is enough information to resolve the problem, he/she should suspend the inquiry and attempt resolution by talking with the employee and appropriate line management officials, separately or together. The EEO counselor can talk with them together only if the employee has given the EEO counselor permission to disclose identity. Otherwise, the EEO counselor should choose the course most likely to result in a satisfactory resolution of the matter. There is no set formula for the EEO counselor to follow in attempting a resolution. Any solution proposed should be based on the information gathered during the inquiry, and should be realistic. When action for management is suggested, it should be a sensible and sound approach to the problem, one that management can reasonably be expected to implement. If management agrees to some action, it is good practice for the EEO counselor to prepare a No-Fault Settlement (Attachment 3 of this exhibit) and provide a copy to the employee, management, and the full-time EEO counselor(s).

(5) Terminating counseling when informal resolution fails. The EEO counselor cannot expect to resolve every problem brought to his/her attention. If the matter cannot be resolved satisfactorily to the aggrieved person, the EEO counselor shall conduct a final interview within 30 days of the date the aggrieved person brought the matter to the EEO counselor's attention. Not later than the 30th day after contacting the EEO counselor, the aggrieved person shall receive a "Notice of Right to File a Formal Complaint" (Attachment 2 of this exhibit). Prior to the end of the 30-day counseling period, the aggrieved person may agree in writing to the Agency to postpone the final interview and extend the counseling period for an additional period of no more than 60 days. If the matter has not been resolved before the conclusion of the agreed extension, the "Notice of Right to File a Formal Complaint" (Attachment 2 of this exhibit) shall be issued.

interview with the aggrieved counselor should advise him/her on the as the EEO counselor sees them. If inquiries indicate that there is no for the allegation of EEO counselor should so advise the must not try to restrain the filing a complaint of the formal procedure if that is person wants to do.

interview with the aggrieved counselor should discuss what occurred counseling process in terms of attempts EEO counselor must not indicate believes the discrimination complaint has counseling inquiries are conducted involve sworn testimony or documentation, the EEO counselor cannot make of discrimination; and should not person that his/her issues of the case constitutes an the Agency on the issue of

counselor will inform the his/her right to file a complaint that the time limit for filing the than 15 calendar days after the of Right to File a Formal 2 of this exhibit) from the

(a) During the final person, the EEO issues in the matter the EEO counselor's likely basis in fact discrimination, the aggrieved person but aggrieved person from discrimination under what the aggrieved

(b) During the final person, the EEO during the EEO at resolution. The whether he/she merit. Since EEO informally and do not extensive findings on the issue imply to the aggrieved interpretation of the official finding of discrimination.

(c) The full-time EEO employee in writing of of discrimination and complaint is no later receipt of the "Notice Complaint" (Attachment

counselor. The full-time EEO counselor aggrieved person that the complaint must be specific with regard to the complained of, and must be signed by his/her representative.

counselor is advised, by an appropriate formal complaint of discrimination from he/she has counseled has been counselor must submit a written report to the full-time EEO counselor and the report to the individual, Management Division (CMD) and to the staff. The EEO counselor's report

full-time EEO should inform the must be in writing, matter or matters the complainant or

(d) When an EEO official, that a an aggrieved person accepted, the EEO of his/her counseling must give a copy of EEO/Complaints National Office EEO

exhibit) should clearly identify should summarize the information and inquiries, and the proposed both to the Agency and to the concerning the matter. Reports should Attachment 1 of this exhibit.

occasions when the same employee will counselor about a matter identical to under consideration in the formal complaint process. When this occurs, the counsel the individual on the matter resolution is improbable in light achieve informal resolution with matters. The full-time EEO the aggrieved person a "Notice of Complaint" (Attachment 2 of this be issued to the individual as the matter can be joined with the formal stage of the complaint elects to file a formal complaint on of the aggrieved person is not processing of formal complaints filed individual.)

should make and keep clear notes activities in order to discuss program with the full-time EEO time to time, furnish input for counseling activity reports, or, on

(Attachment 1 of this the issue(s), and gathered in interviews resolutions offered aggrieved person be in the format of

(e) There will be contact the EEO those matters already discrimination EEO counselor must even though informal of the failure to regard to the earlier counselor must give Right to File a Formal exhibit) which should early as possible, so matters already in the process if he/she the matter. (Consent required for joint by the same

(f) The EEO Counselor on all counseling problems and progress counselor(s) and, from the Agency's

information on counseling activities to
in connection with EEO
an EEO counselor has information
for correction or improvement in
program in his/her organization, it
brought to the attention of the EEO
decision on appropriate action.

request, provide
Agency representatives
evaluations. Any time
which indicates a need
the EEO counseling
should be promptly
Coordinator for a

shall not attempt in any way to
person from filing a complaint.
shall not reveal the identity of an
consulted the EEO counselor, except
so by the aggrieved person, or
has received a discrimination
aggrieved person.

(g) The EEO counselor
restrain the aggrieved
The EEO counselor
aggrieved person who
when authorized to do
until the Department
complaint from the

I. Management support. The EEO counselor needs the solid backing of management. The job is an integral and essential part of the total EEO counseling program, and employees, supervisors and top management must give the EEO counselor full cooperation in his/her efforts to resolve problems on an informal basis. The EEO counselor needs support in terms of cooperation, facilities and time; in addition, the EEO counselor must be free from restraint, coercion, discrimination, or reprisal.

(1) Many informal complaints of discrimination may be resolved during the counseling stage of the complaint process when the appropriate line management officials, e.g., Division Directors, State Directors and Assistant Administrator, Finance Office and/or other managers and supervisors make themselves available and freely communicate with the EEO counselor. For this reason, line management officials who may be involved in the matter raised by the employee or applicant have a responsibility to assist the EEO counselor in attempting to resolve the matter informally. In this regard, managers and supervisors should keep in mind that the function of the EEO counselor is to serve as an intermediary for the purpose of attempting an informal resolution of the aggrieved person's concerns and relate information back to the aggrieved person which the manager or supervisor may contribute. Hence, managers and supervisors who are contacted by an EEO counselor should not view and/or treat the EEO counselor as the personal representative of the aggrieved person, or as an advocate for the person's concerns during the EEO counselor's attempts to resolve the matter informally.

(2) Agency managers and supervisors should communicate directly with the EEO counselors and be accessible to them. In the event an employee would prefer to be counseled by an EEO counselor located in another State, travel of requested EEO counselor is permissible. In this case, the State which has the employee who is aggrieved will sustain the cost of the EEO counselor's travel. The State will generally provide for an EEO counselor to travel to interview the employee rather than have the employee travel to meet with the EEO counselor.

(3) Further, it is essential that EEO counselors be given access to pertinent records and information when making an inquiry into an allegation of discrimination if they are to do an effective job. In this respect, EEO counselors serve as a bridge between employees and management and are responsible for trying to clear up problems which are brought to their attention by aggrieved employees. The EEO counselor, therefore, has a rightful access to personnel records and information related to the case he/she is working on, when performing the duties of an EEO counselor. This not only includes the personnel records of the employee who has contacted the EEO counselor, but also the personnel records of other employees when these are necessary in making a full and complete inquiry. EEO counselors need not take Official Personnel Folders (OPF) from record units. One should be able to use the folders onsite to obtain any necessary information. Moreover, the gathering of information may be done under the direct observation of a personnel official if that is the local administrative policy.

(4) Further, performing the duties of an EEO counselor is an official responsibility. Therefore, when necessary to the inquiry, the EEO counselor may review records of a promotion panel, performance appraisals, and other promotion documents. However, he/she must be careful in further counseling sessions with the aggrieved employee not to reveal confidential information about other employees involved.

Information from protected personnel record systems should be reduced to a summary with all names except that of the aggrieved person deleted, (e.g., years of experience, level of education and/or awards for candidate A, candidate B, etc.) before discussion with the aggrieved person or inclusion in a EEO counselor's report. Specifically, the EEO counselor may:

- (a) Not reveal:
 - (i) The scoring and/or comments of individual promotion panel;
 - (ii) The performance rating of other employees;
 - (iii) Any information contained in other employees' OPF.
- (b) Reveal the identity of the panel members and the persons who were found to be "Best Qualified" or "Highly Qualified".

J. Training EEO counselors.

(1) General. Under normal circumstances, no EEO counselor should be assigned a case until he/she is formally trained and briefed on the EEO counseling program.

(2) Orientation and training. Ongoing orientation and training, both formal and informal, will help EEO counselors gain knowledge in such areas as:

- (a) The general structure and operation of the Federal personnel system, including position classification, merit promotion, staffing, performance evaluation, career development, employee rights and responsibilities, and grievance and appeals procedures.
- (b) FmHA's procedures and regulations that pertain to personnel, including provisions of negotiated agreements with labor organizations.

and the general occupational
required to perform the work
mission.

and interviewing techniques.

conflict resolution.

K. Conflict of interest.

(1) An EEO counselor may not accept any request for
counseling which would result in a conflict of interest.
Conflict of interest exists when the EEO counselor:

involved in the action of concern to
(e.g., a candidate for the same
aggrieved person applied);

supervised by the aggrieved

relationship with the aggrieved
impair impartial resolution efforts;

properly pursue the aggrieved person's
access to documents of personal
counselor which otherwise would be
Privacy Act record system. An
counsel his/her own concerns.

(c) FmHA's mission
knowledge and skills
associated with the

(d) EEO Counseling

(e) Research.

(f) Mediation and

(a) Was personally
the aggrieved person
vacancy for which the

(b) Supervises or is
person;

(c) Otherwise has a
person which would
or

(d) In order to
concern, must have
interest to the EEO
protected as part of a
EEO counselor may not

(2) The EEO counselor must not be involved in the processing
of the formal complaint, but is expected to assist the
complainant in filing the necessary documents for the formal
complaint if such assistance is requested. The EEO counselor
and other EEO officials have vital roles in the resolution of
discrimination complaints, and to operate effectively, they
must have the confidence of both management and employees.
Therefore, an EEO counselor or other EEO officials cannot
serve as a representative for a complainant or for the Agency

in connection with the processing of a complaint of
discrimination.

oOo

(04-21-93) PN 204

SAMPLE

COMPLAINT COUNSELOR'S REPORT

THE ISSUE (EXPLAIN THE ACTION OR DECISION AND THE BASIS OF DISCRIMINATION ALLEGED):

SPECIFIC CORRECTIVE ACTION(S) REQUESTED BY COMPLAINANT:

NAME, ORGANIZATIONAL UNIT, LOCATION, TITLE, RELEVANT STATUS IN RELATION TO COMPLAINT BASIS, AND NATURE OF INVOLVEMENT OF OTHERS IN THE CASE:

FACTS DEVELOPED IN THE INQUIRY:

RESOLUTION EFFORTS:

CLOSURE:

COUNSELOR (PHONE NUMBER)

DATE

ooo

SUBJECT: NOTICE OF RIGHT TO FILE A FORMAL COMPLAINT

TO: Name of Person Counseled

FROM: Full-Time Equal Employment Opportunity (EEO) Counselor
(Specific Office Location)

This is to inform you that because the matter you brought to my attention has not been resolved to your satisfaction, you are now entitled to file a discrimination complaint based on race, color, religion, sex, national origin, age, or handicapping condition. You have the right to file a COMPLAINT OF DISCRIMINATION WITHIN 15 CALENDAR DAYS AFTER RECEIPT OF THIS NOTICE.

The complaint must be in writing and may be filed in person or by mail with the following official authorized to receive discrimination complaints:

Director, EEO Complaints Management Division
U.S. Department of Agriculture
14th & Independence Avenue, S.W.
Room 324-W
Washington, D.C. 20250-0700

The complaint must be specific and must be limited to the matters discussed with me.

oOo

NO-FAULT SETTLEMENT AGREEMENT

I, _____, agree to withdraw my allegation(s) of discrimination and/or reprisal effective this date, in consideration for the commitment of the U.S. Department of Agriculture's (USDA) Farmers Home Administration (FmHA), evidenced by the signature of (State Director; Assistant Administrator, Finance Office; or Administrator) below, to take the following action(s):

and/or findings listed) (Corrective action(s))

There are no other terms or conditions other than those specified. I understand that I am to be free from any reprisal in connection with this matter and that if the FmHA rescinds or fails to carry out any of the above terms for reasons not attributable to my acts or conduct, I may resume counseling. This agreement is not an admission of discrimination on the part of the Agency or the complainant.

(Signature of employee or applicant)

(Signature of State Director;
Assistant Administrator,
Finance Office; or Administrator)

DATE

DATE

*In certain circumstances it may be desirable to specify the exact allegation(s) covered by the agreement.

Exhibit F, Part 2045, Subpart X - Equal Employment Opportunity
- Equal Employment Opportunity
Complaints of Discrimination

Table of Contents

- A. Purpose and Scope
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- H. Proposed Disposition
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- J. Decision
- K. Appeal
- L. Right to File a Civil Action
- M. Consolidation of Complaints
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Attachments:

- No. 1 Sample - Complaint Form: Complaint of Discrimination in the
Federal Government
- No. 2 Sample - Memorandum of Informal Adjustment of Formal Complaint

Exhibit F, Part 2045, Subpart X - Equal Employment Opportunity
- Equal Employment Opportunity
Complaints of Discrimination

A. Purpose and Scope. The purpose of this Exhibit is to set forth policy and guidance on the procedure for processing Equal Employment Opportunity (EEO) complaints of discrimination arising in the Agency; provide information to all Agency employees regarding the EEO complaint procedure and define their rights therein; and to set forth policy and procedure on the participation and responsibility of the Agency Administrator, State Directors, Director, Finance Office, managers and supervisors, and EEO officials with regard to their role in the discrimination complaint process.

B. Legal authority.

(1) Executive Order 11478, August 1969. (Requires Federal agencies to provide systems for consideration of complaints of discrimination including access to counseling for employees who feel aggrieved, and to encourage the resolution of employee problems on an informal basis.)

(2) Public Law 92-261, March 1972. (Federal employees and agencies were placed under equal employment opportunity provisions of the Civil Rights Act of 1964 with regard to processing formal complaints of discrimination, affirmative action, upward mobility, EEO program evaluation and training. The law requires that all personnel actions affecting employees or applicants shall be free from discrimination because of race, color, religion, sex, or national origin. The law specifically gives employees or applicants who have filed a formal complaint of discrimination the right to file a civil action in an appropriate Federal District Court, in which the Secretary of Agriculture will be the defendant.)

(3) Title 29 of the Code of Federal Regulations, Part 1613. (Section 1613.212 requires Federal agencies to provide in their regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that he or she has been discriminated against because of race, color, religion, sex, or national origin.)

(4) Public Law 93-259, April 1974. (Requires Federal agencies to provide for the acceptance and processing of complaints of discrimination on account of age.)

(5) Rehabilitation Act of 1973, Section 501. (Calls for Government-wide affirmative action program plans for the hiring, placement, and advancement of handicapped individuals. The right to file a complaint of discrimination based on physical or mental handicap is set forth in Title 29 of the Code of Federal Regulations, Part 1613. Section 1613.709 requires an agency to provide in its regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that he/she has been discriminated against because of a handicapping condition.)

C. Equal Employment Opportunity (EEO) Policy.

(1) It is the policy of the Department of Agriculture to prohibit discrimination and to ensure equal opportunity for all employees and applicants without regard to race, color, religion, sex, national origin, age, or handicapping condition. In furtherance of this policy, it is the responsibility of the Agency to assure that all employees and applicants are accorded the right to have their allegations of discrimination against the Agency considered under established discrimination complaint processing regulations for the purpose of achieving informal resolution or a formal disposition.

(2) Freedom from reprisal. Complainants, their representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage, or any time thereafter. Agency employees who are EEO officials, EEO Counselors, or other officials having responsibility for processing complaints of discrimination shall be free from restraint, interference, coercion, discrimination or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage, or any time thereafter. Any such official or employee who believes that he/she has been subjected to restraint, interference, coercion, or reprisal, because of involvement in the presentation and/or processing of a complaint may file a complaint of discrimination. EEO counseling on such allegations of discrimination must precede the filing of a formal complaint.

(3) A complaint of discrimination is against the Agency and not against a particular official even though an official may be named or implicated in the alleged discriminatory act. It is the responsibility of the Agency to root out discrimination and the complaint procedure offers the Agency one avenue to do this and to assure that the actions of Agency managers and supervisors are free from discrimination as they affect employees. The complainant and the Agency are thus the only parties to the discrimination complaint proceeding.

D. Counseling.

(1) An aggrieved employee or applicant for employment with the Agency who believes that he or she has been discriminated against must contact an EEO Counselor within 30 calendar days of the alleged discriminatory action, or within 30 days of the most recent act of alleged discrimination if the conduct is continuing in nature. Aggrieved employees and applicants will find the name, address, phone number and photograph of Agency EEO Counselors on EEO posters displayed throughout the Agency.

(2) The EEO Counselor will attempt to resolve the matter informally. Insofar as practicable, the EEO Counselor will conduct the final interview with the aggrieved person not later than 21 calendar days after the date on which the matter was called to the Counselor's attention by the aggrieved person. If, within 21 calendar days, the matter is not resolved to the satisfaction of the aggrieved person, that person shall be immediately informed by the EEO Counselor in writing of the right to file a formal complaint at that time, counseling may continue. When, however, the Counselor is reasonably certain that the matter cannot be resolved to the satisfaction of the aggrieved person, a final interview will be held, counseling will be terminated, and the EEO Counselor will issue a notice of final counseling interview in writing to the aggrieved person. Thereafter, the aggrieved person has 15 calendar days after receipt of the notice to file a complaint of discrimination. (See Exhibit E, Attachment No. 2: Diagram - Steps in EEO Complaint Procedure; and Attachment No. 1: Procedures for Processing Complaints of Discrimination.) (Revised 10-24-90, PN 148.)

(3) Many informal complaints of discrimination may be resolved during the counseling stage of the complaint process when the appropriate line management officials, e.g., Division Directors, State Directors and Director, Finance Office, and/or other managers and supervisors make themselves available and freely communicate with the EEO Counselor. For this reason, line management officials who may be involved in the matter raised by the employee or applicant have a responsibility to assist the EEO Counselor in attempting to resolve the matter informally. In this regard, managers and supervisors should keep in mind that the function of the EEO Counselor is to serve as an intermediary for the purpose of attempting an informal resolution of the aggrieved person's allegations. The Counselor will meet with the appropriate manager or supervisor, convey to the manager or supervisor the aggrieved person's concerns and relate information back to the aggrieved person which the manager or supervisor may contribute. Hence, managers and supervisors who are contacted by an EEO Counselor should not view and/or treat the EEO Counselor as the personal representative of the aggrieved person, or as an advocate for the person's concerns, during the Counselor's attempts to resolve the matter informally.

(4) A formal complaint of discrimination is not needed before remedial relief can be granted, e.g., promotion, promotion with backpay, cancellation of unwarranted personnel actions, training and/or work assignments. Federal Agencies have a statutory responsibility under the EEO Act of 1972, (Public Law 92-261), to eradicate discrimination when it exists and for this reason it is not mandatory that aggrieved employees and applicants file a formal complaint of discrimination before remedial action can be taken. Therefore, the Agency Administrator, Division Director, State Director and Director, Finance Office may take remedial action appropriate for the alleged discrimination to achieve resolution of the matter on an informal basis during precomplaint counseling. Personnel actions and other matters affecting employees employed within their organizational units should be corrected by a written informal resolution without a decision in writing on the merits of the allegation and/or a finding of discrimination in writing. These officials should take such actions, however, only if they believe some degree of discrimination may have occurred.

E. Filing and presentation of formal complaints.

(1) Filing. A formal complaint of discrimination must state the basis of the alleged discrimination, i.e., race, color, religion, sex, national origin, age, or handicapping condition, or any combination of these factors, must be in writing, signed and dated by the complainant. (See Attachment No. 1 - Sample Form: Complaint of Discrimination in the Federal Government. A complainant who believes a particular individual(s) has discriminated against him/she may identify an official(s) in a complaint if he/she wishes to do so. Further, the filing of a complaint of discrimination will not terminate an adverse action proceeding; e.g., removal, suspension for more than 14 days, or any other kind of action being taken against an employee. In order to be properly filed, formal complaints of discrimination must be addressed to one of the following officials: (Revised 10-24-90, PN 148.)

Secretary
U.S. Department of Agriculture
Washington, D.C. 20250

Assistant Secretary for Administration
U.S. Department of Agriculture
Washington, D.C. 20250

Administrator
Farmers Home Administration
U.S. Department of Agriculture
Washington, DC 20250

Regardless of the addressee, formal complaints are forwarded to the Office of Personnel of the Department of Agriculture (USDA-OP). USDA-OP will notify the complainant of its receipt of the complaint and all administrative rights.

(2) Grounds for rejection. The Director of EEO for the Department of Agriculture (the Assistant Secretary for Administration) makes the decision whether or not a formal complaint of discrimination will be accepted for processing. When a formal complaint is accepted for processing, the Department's Director of EEO will notify the complainant by letter of those issues in the complaint which will be investigated. When a formal complaint is not accepted for processing, the complainant will be notified by the Department's Director of EEO in writing of the decision to reject the complaint and the reasons, and of the time limits for filing an appeal with the U.S. Equal Employment Opportunity Commission, or a civil action in an appropriate Federal District Court.

(a) Time limits. A complaint of discrimination may be rejected when the aggrieved person fails to contact an EEO Counselor within 30 calendar days of the alleged discrimination. Further, a complaint of discrimination may be rejected if it was not filed within 15 days of receipt of notice of final interview from the EEO Counselor. (A complaint is deemed filed on the date it is received if hand delivered to an appropriate official, or on the date postmarked if mailed to an appropriate official designated to receive complaints.) Ordinarily USDA-OP will give the complainant an opportunity to furnish reasons why these time limits (30-day and/or 15-day) have not been met. If the complainant fails to furnish such information within the time limit set by USDA-OP, the complaint will not be investigated.

(b) Identical matters. A complaint of discrimination may be rejected if it contains identical matters as contained in a previous complaint filed by the same complainant which is pending or has been decided by the Department. This does not include, however, a complaint alleging reprisal for having previously filed a complaint of discrimination.

(c) Purview. The Department may reject a complaint which is not within the purview of the discrimination complaint processing regulations. For example, complaints of discrimination because of political affiliation or marital status are not within the purview of EEO discrimination complaint regulations and must be filed under Merit Systems Protection Board procedures. To be acceptable, a complaint must allege discrimination related to one or a combination of the following prohibited factors:

(i) Race. A complaint may be filed by any individual because of his/her race.

(ii) Color. A complaint may be filed by any individual including a member of a minority or nonminority racial group.

(iii) Religion. A complaint may be filed by any individual because of his/her religious beliefs or practices. The complaint may allege that the Agency failed to attempt to grant reasonable accommodation, e.g. work hours, tour of duty, to the employee or applicant for his/her religious practices.

(iv) Sex. A complaint may be filed by either male or female individuals. For example, a complaint may be filed alleging discrimination on the basis of pregnancy, sexual harassment, childbirth, or any related medical condition.

(v) National origin. A complaint may be filed by any individual including a member of a nonminority national origin group; e.g. Italian-American, Polish-American.

(vi) Age. A complaint may be filed by any individual at least 40 years of age at the time of the alleged discrimination. There is no upper age limit.

(vii) Physical or mental handicap. A complaint may be filed by any qualified handicapped person who has a physical or mental impairment which substantially limits one or more of such person's major life activities; has a record of such an impairment; or alleges that he/she is regarded as having such an impairment. This prohibited factor includes alcoholism.

(viii) Reprisal. A complaint may be filed by an employee or applicant who alleges restraint, interference, coercion, discrimination, or reprisal because he/she raised an allegation of discrimination related to one or more of the prohibited factors; or because of having served as a representative of, or a witness for, another individual in connection with such an allegation.

(3) Grounds for cancellation. USDA/OP may cancel a complaint because of the failure of the complainant to proceed with the complaint. For example, the complaint may be canceled when the complainant refuses to meet with the complaint investigator or provide an affidavit, or fails to appear at the hearing on the complaint. Further, even when the allegations in a complaint meet regulatory requirements, USDA-OP will not accept for investigation any allegations which are so vague or general that no specific issues can be defined which pertain to the

alleged discrimination suffered by the complainant and which thus could not be investigated. If vague or general allegations cannot be made more specific by reference to the EEO Counselor's report, USDA-OP will give the complainant an opportunity to furnish more specific information on such allegations in an attempt to define the issue(s) which the employee or applicant is raising. If the complainant is unable to or refuses to furnish such information within the time period set by USDA-OP, USDA-OP will cancel the general allegations of the complaint for failure of the complainant to proceed in the process and advise the complainant in writing of his/her rights of appeal. The evidentiary burden on the complainant at this stage and throughout the remaining stages of the complaint procedure is to provide whatever information about the alleged discrimination he/she possesses and, when possible, to provide such information with specificity and detail.

(4) Official time.

(a) An EEO complainant has a reasonable amount of official time to present an EEO complaint if he/she is otherwise in active duty status. No set amount of time is specified by law or regulation. The U.S. Equal Employment Opportunity Commission's regulations governing the processing of discrimination complaints have been interpreted, however, as requiring Federal agencies to allow a reasonable amount of official time, not only to present the complaint but also to prepare it. Further, the regulations intend to provide the complainant a reasonable amount of official time during all stages of the administrative processing of the complaint. This includes counseling and preparing for hearings and appeals. The reference to official time, of course, is time spent during working hours without charge to leave or loss of pay. Official time for presenting or preparing the complaint should be time spent working on the complaint at the worksite, except where valid situations justify the employee leaving; e.g. meeting with a representative when the representative cannot possibly meet with the complainant at the worksite. If the complainant must leave the worksite in preparation of the complaint, other than the hearing, travel allowances and reimbursement are not appropriate. This is so because the employee even though on official time, would not be on "official business" for the Agency. If a hearing is held, however, the complainant and all other witnesses who are employees of the Agency are entitled to travel allowances or reimbursement. Their travel to and from the hearing is "official business" of the Agency since their appearance at the hearing is "official duty" for all purposes. Complainants are not entitled to official duty time for the preparation and presentation of the EEO complaint in a civil court action, whether or not the complaint is pending administratively or the civil action is a class action or a case of individual discrimination.

(b) Official time allocations during counseling are generally limited to the time actually spent in meeting(s) with the EEO Counselor. One or two additional hours may also be allocated for preparation of a formal complaint itself if one is to be filed. During the investigation, official time will generally be limited to the time spent meeting with the investigator. Additional time may be allowed for preparing documents for submission to the investigator. The informal adjustment attempt itself is also conducted on official time. When necessary, the reasonableness of the amount of official time at any stage of a complaint to be allowed to either a complainant or a representative should be determined in consultation with the complainant and/or representative.

(5) Right to representation. EEO complainants have the right under regulations to be represented by a person of his/her own choosing, at every stage in the processing of his/her complaint, including the counseling stage. Further, if the complainant is an employee of the Agency, and he/she designates another employee of the Agency to be his/her representative, the representative shall also have a reasonable amount of official time to present the complaint if he/she is otherwise in an active duty status. There is, however, a limitation on the EEO complainant's right to have a representative of his/her own choosing. The EEO Counselor and other EEO officials have vital roles in the resolution of discrimination complaints, and to operate effectively, they must have the confidence of both management and employees. Therefore, an EEO Counselor or other EEO official cannot serve as a representative for a complainant or for the Agency in connection with the processing of a complaint of discrimination. A complainant may expect appropriate assistance from an EEO Counselor, EEO official, including Federal Women's Program Managers and Hispanic Employment Program Managers, in the submission of complaints. However, such assistance will not include representation of the complainant at any stage of the proceeding, including the hearing. To do so would compromise their future usefulness in carrying out program responsibilities.

F. Investigation.

(1) The discrimination complaint procedure is one of the means by which the Agency discharges its responsibility under EEO law and regulations to assure that all its personnel actions are free from discrimination based on race, color, sex, religion, national origin, age, or handicapping condition. It is important to stress that it is from beginning to end (at least until appealed) basically an investigative process.

(2) When a complaint of discrimination has been accepted for formal investigation by USDA-OP, the Agency's EEO Office and the complainant are notified in writing of the acceptance of the complaint. The complaint

and the EEO Counselor's Report are then referred by USDA-OP to the Office of the Inspector General (OIG) which assigns an investigator who will conduct the formal investigation of the complaint. Discrimination complaint processing regulations require that the person assigned to investigate the complaint shall occupy a position which is not directly or indirectly under the jurisdiction of the head of the Agency in which the complaint arose. OIG investigations, inasmuch as they are not under the jurisdiction of the Agency Administrator, satisfy the requirement. The Department authorizes the investigator to administer oaths and requires that statements of witnesses shall be under oath or affirmation, without a pledge of confidence.

(3) During the investigation, the complainant does not have the burden of proving discrimination but does have the burden of presenting whatever information or evidence is in his/her possession to support the complaint and to advise where evidence he/she knows of may be found. Further, even though the complainant will be given the first opportunity to prepare an affidavit, it does not mean that the complainant must prove discrimination. The complainant is permitted to proceed first in the order of presentation of evidence to afford the complainant an opportunity to state his/her views and to present evidence while the facts are still clear in his/her mind, and not merely in rebuttal to Agency evidence or assertions which may tend to confuse the complainant and result in failure to present the complainant's side fully as he/she perceives it.

(4) The investigation includes a review of the circumstances under which the alleged discrimination occurred, the treatment of members of the complainant's group identified by the complaint as compared with the treatment of other employees in the organizational segment in which the alleged discrimination occurred, and any policies and practices related to the work situation which may constitute, or appear to constitute, discrimination even though they have not been expressly cited by the complainant.

(5) Investigators maintain independence and control over EEO investigations and contacts with EEO officials are confined to request(s) for technical or procedural assistance the investigator feels necessary to expedite the investigation. The investigator will exercise neutrality and remain independent of guidance from the EEO Coordinator and other Agency officials with regard to the course of the investigation.

(6) Agency officials should render whatever assistance and support the investigator may need to facilitate completion of the investigation and submission of the report. As a matter of good practice, an Agency

official should be designated at the time the investigator arrives to provide the investigator a point of contact to facilitate the investigation. Such designation should not hamper the investigator in discussing the matter with other officials nor create an adversarial relationship with the designated Agency official.

(7) In order to assure the conduct of an independent investigation and to avoid possible charges of interference and improper influence, the investigator will not allow access to the contents of the investigative file while it is in the investigator's control. All affidavits and documents obtained during the investigation, whether or not physically included in the final investigative file, are considered part of the investigative file.

(8) An alleged discriminating official is not, under ordinary circumstances, entitled to have access to the investigative file. However, the investigation will make pertinent material intended for inclusion in the file (e.g., the written complaint or relevant portions of the complainant's affidavit) available to the official to afford the alleged discriminating official a fair opportunity to respond to allegations regarding his/her conduct which have been raised in the complaint. (See FPM Letter 713-42 for a detailed discussion of the participation of an alleged discriminating official in the complaint process.)

(9) When the investigation is completed, OIG provides the complainant and/or designated representative a copy of the investigative file. The EEO Office in the National Office also receives a copy of the investigative file from OIG. Thereafter, the EEO Office staff will provide an opportunity for the complainant to discuss the results of the investigation for the purpose of achieving adjustment of the complaint on an informal basis.

G. Adjustment of complaint.

(1) Informal resolution pending completion of OIG investigation.

(a) Managers and supervisors at the field level should be alerted to possibilities for informal resolution of the complaint at all times. If a resolution can be reached based on information contained in the EEO Counselor's Report prior to the mandatory informal adjustment attempt, the terms of the resolution including remedial action when appropriate shall be set forth in writing, signed by the complainant (or the representative if a representative has been authorized by the complainant), the Agency Administrator, State Director or Director, Finance Office, as appropriate. (See Attachment No. 2: Sample Memorandum of Informal Adjustment of Formal Complaint, which should be modified as necessary.)

(b) If the complaint contains a matter in which a presumption of discrimination is reasonable, the field office may desire to settle the matter by taking corrective action benefiting the individual if it appears that such action would generally promote equal employment opportunity. 5 CFR 1613.217 (a) has been interpreted as authority for the Agency to correct an unwarranted personnel action, promote, promote with backpay, award attorney's fees or other appropriate relief, without making a finding of discrimination. A copy of any resolution agreement entered into as a result of an attempt at informal resolution must be provided the complainant and a copy submitted to the National Office's EEO Office. It is suggested that corrective action be granted only when there is evidence or bases to conclude that discrimination may have occurred. Further, any corrective action granted should not be contingent upon future performance of the complainant. For this reason the National Office EEO Staff will review all informal resolutions at the field level for the purpose of assuring that corrective actions, if any, are not conditional.

(c) If the Agency (including any organizational unit) does not carry out, or rescinds, any action specified by the terms of the resolution for any reason not attributable to acts or conduct of the complainant, the Agency will, upon receipt of the complainant's written request, reinstate the complaint for further processing from the point processing ceased under the terms of the adjustment.

(2) Mandatory informal adjustment attempt.

(a) When an informal resolution has not been achieved at the field level, the EEO Office in the National Office will attempt to informally adjust the complaint after receipt of the investigative file from the OIG. The evidence will be analyzed and evaluated to determine first, whether or not there was disparate treatment of the complainant and, if present, whether or not the disparate treatment was based on the complainant's race, color, religion, sex, national origin, age, or handicapping condition. Disparate treatment may be shown by direct evidence, such as statements by an official that show an intent, to treat the complainant differently, or it may be shown by indirect evidence, including circumstantial evidence, of different treatment of persons similarly situated. Under EEO law theory, however, evidence of intent to discriminate is not

necessary to conclude that a complainant received disparate treatment. Hence, the investigation may compel a finding of discrimination without evidence of intent to discriminate by a manager or supervisor. Further, disparate treatment can be systemic or institutional rather than individually motivated when a pattern of past discriminatory practices is revealed by the evidence. Such evidence may also be used in determining whether or not there was discrimination.

(b) The EEO Staff, which represents the Agency Administrator at informal adjustment meetings, will contact the complainant and consult with the appropriate State Director to attempt informal adjustment of complaints filed in the States. The EEO Staff will contact the complainant and consult with the Director, Finance Office, the Equal Employment Opportunity Specialist and the Personnel Officer jointly to attempt an informal resolution of complaints arising in the Finance Office. If a resolution is reached, its terms including remedial action, when appropriate, shall be set forth in writing. A copy shall be made a part of the complaint file, with a copy to the complainant.

(c) Since the proceeding is basically an investigation into the facts relating to the complaint, and the complainant and the Agency are the only parties to the proceeding, access or review of the investigative file by Agency officials will not be granted. The possibility of prejudice to affiants or unwillingness on their part to provide information will always exist if the file were made reviewable. Moreover, to make the file available would open the opportunity for retaliation and reprisal, or at least employee perception of retaliation and reprisal, and would therefore have a chilling effect on the testimony of employees.

H. Proposed disposition. Complaint processing regulations provide for a proposed disposition to be made by the Agency if an informal adjustment is not reached. The proposed disposition is a memorandum to the complainant signed by the Agency Administrator which outlines the complainant's allegations and the Agency's findings and conclusions regarding the complainant's allegations. The proposed disposition will include a finding on the issue of discrimination and is one which the Agency is willing and able to carry out. Regulations require a complainant to respond within 15 days of receipt of the proposed disposition as to whether he/she is dissatisfied with its findings, conclusions or terms.

(1) If the complainant is not satisfied with the proposed disposition, the complainant may request a hearing on the complaint. In such event, the Agency will engage an Equal Employment Opportunity Complaints Examiner to conduct the hearing. The hearing will be conducted by a third party examiner who is not connected in any way

with the Department. The Complaints Examiner will issue a recommended decision and forward it and the complaint file to USDA-OP. The Department's Director of EEO will make a final decision based on the entire complaint file, at which time the complainant will receive a copy of the Complaint Examiner's recommended decision.

(2) As an alternative, the complainant may request that the complaint be reviewed on the record as is by USDA-OP for the purpose of receiving a decision without a hearing. The decision by USDA-OP will be the final decision of the Department of Agriculture on the complaint and signed by the Department's Director of EEO.

(3) If the complainant fails to respond to the Agency within the 15-day time limit, the Agency will adopt its proposed disposition. The adopted proposed disposition will serve as the Department of Agriculture's final decision on the complaint.

I. Hearing

(1) When a hearing is requested, the EEO Complaints Examiner will obtain from the Agency and the complainant a list of those witnesses they believe should testify in their behalf in the hearing. The Agency and the complainant will submit a list indicating in a general way what testimony each witness is expected to give. The Examiner will then make a decision on the necessity for each witness requested by the parties. This determination will be made regardless of whether the witness is employed by the Agency and regardless of the likelihood of the witness' availability at the hearing. In determining the necessity for a witness to testify, the Examiner will seek to avoid repetitious testimony being given at the hearing. Witnesses at hearings will be limited to those persons who have personal knowledge of the alleged discrimination which is the subject of the complaint. (EEO officials and the investigator would ordinarily not have personal knowledge of the facts and will not be called as witnesses.) After the Examiner has made a determination on the necessity for each requested witness to testify, the Examiner will notify the Agency of the names of those employees whose attendance is desired. In this regard attendance of witnesses who are employees of the Agency is considered official duty for all purposes. The Examiner may also call as a witness, on his own initiative, anyone who has not been requested by either of the other Parties, but whose testimony the Examiner believes is necessary to the resolution of the complaint.

(2) Witnesses may be fearful that they may jeopardize themselves in some manner by their responses at the hearing and for this reason are entitled to have a representative if they wish. Accordingly, a witness may have a representative present while testifying, but the representative

may not respond in place of the witness. Further, because of the complexities of hearing procedures, complainants will find it helpful to have a designated representative at this stage of the complaint if one has not been engaged for earlier stages of the process.

(3) A prehearing conference with both parties will be scheduled by the Examiner. At the prehearing conference the Examiner will make an effort to assist the parties in resolving the matter prior to the hearing. The Examiner may suggest alternative solutions to the problem and get the parties talking. The Examiner will have the parties consider whether or not their respective positions would be different in light of any additional documentation which was not included in the investigative file as a basis for the attempted informal adjustment. While the Examiner's basic job is to hold the hearing and not to mediate an informal solution, the Examiner will not preclude the possibility of an informal resolution at the prehearing conference and may even set the stage for it.

(4) The hearing is recorded and transcribed verbatim. The Complaints Examiner issues findings, analysis, and a recommended decision, and forwards these and the complaint file to USDA-OP. USDA-OP may accept, reject, or modify the Examiner's recommended decision. The Department's Director of EEO will make a decision based on the entire complaint file, at which time it will give the complainant a copy of the Complaints Examiner's recommended decision. The Director of EEO will give reasons for rejection or any modification of the Complaints Examiner's recommended decision.

J. Decision. The Director of EEO will make the decision for the Department on a complaint. Regulations require that a person designated to make a decision for the Secretary of Agriculture shall be one who is fair, impartial, and objective. Hence, the decision for the Department is prepared by USDA-OP officials. When there has been no hearing and no informal adjustment of the complaint, the decision letter shall set forth the findings, analysis, and decision of the Director of EEO. When there has been a hearing on a complaint, the decision letter shall transmit a copy of the findings, analysis, and recommended decision of the Complaints Examiner and a copy of the hearing record. The decision of the Department will require any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and/or to promote the policy of equal opportunity, whether or not there is a finding of discrimination.

K. Appeal.

(1) The complainant has the right to appeal to the U.S. Equal Employment Opportunity Commission's Office of Review and Appeals (ORA) within

20 calendar days after receipt of the Department's final decision on the complaint if not satisfied with that decision. If the complainant elects to appeal to the Equal Employment Opportunity Commission, the appeal should be addressed to:

U.S. Equal Employment Opportunity Commission
Office of Review and Appeals
2401 E Street, NW.,
Washington, DC. 20506

(2) An appeal will be deemed filed on the date it is postmarked, or in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the Agency within 30 calendar days of filing notice of appeal.

(3) The Office of Review and Appeals will review the complaint file and all relevant written representation. There is no right to a hearing with the Office of Review and Appeals. However, a complaint may be remanded for further investigation or a rehearing if that action is considered necessary.

(4) The Commission will issue a written decision setting forth its reasons for the decision, and will send copies to the complainant, complainant's designated representative, and the USDA-OP. The decision of the commission is final; i.e., the final stage of review in the administrative processing of the complaint. The decision will, however, contain notice of the right to file a civil action in an appropriate Federal District Court.

L. Right to file a civil action. The complainant may file a civil action in Federal District Court at various stages in the complaint process. (The filing of a civil action by an employee or applicant does not terminate Agency processing of a complaint or the Equal Employment Opportunity Commission's processing of an appeal.) An employee or applicant is authorized by section 717(c) of the Civil Rights Act, as amended by Public Law 92-261, to file a civil action in an appropriate Federal District Court:

(1) Within 30 calendar days of receipt of notice of final action taken by the Department or the Agency on a complaint. This includes those complaints in which the Agency adopts its proposed disposition as the final decision of the Department of Agriculture, and complaints which may be rejected or canceled by USDA-OP;

(2) after 180 calendar days from the date of filing a formal complaint with the Department or the Agency if there has been no decision;

(3) within 30 calendar days after the receipt of final action taken by the Equal Employment Opportunity Commission on the complaint when the Department of Agriculture's final decision was appealed to the Commission;

(4) after 180 calendar days from the date of filing an appeal with the Equal Employment Opportunity Commission if there has been no Commission decision.

M. Consolidation of complaints. Discrimination complaints filed by several employees or applicants relating to the same or similar issue(s) may be consolidated for processing by the Department or by the Equal Employment Opportunity Commission with the written consent of the affected complainants. When a complaint is consolidated, each complainant will receive a separate report of the investigation although one investigation will be conducted. Similarly, each complainant will be entitled to a separate proposed disposition. Only one hearing will be conducted on a consolidated complaint, but the Agency or Department will issue a separate final Agency decision to each complainant. A complainant in a consolidated complaint may withdraw his/her complaint at any time. Such a withdrawal will not affect the processing of the remaining complaints in the consolidated complaint.

N. Joint processing of complaints. Individual discrimination complaints filed by the same complainant may be joined for processing. One investigation, one meeting for purposes of attempting informal adjustment, one proposed disposition, one hearing, and one final Agency decision, will be provided to a complainant whose complaints have been joined. Consent of a complainant is not required for joint processing of a complainant's complaints.

O. Class complaints of discrimination. The regulations which govern the processing of complaints of discrimination in the Federal Government provide for the processing of class complaints of discrimination. A class is a group of employees, former employees, and/or applicants for employment with the Agency on whose behalf it is alleged that they have been, are being, or may be adversely affected by an Agency personnel management policy or practice which the Agency has authority to rescind or modify, and which discriminates against the group on the basis of its common race, color, religion, sex, national origin, age, or handicapping condition. An employee or applicant who wishes to be an agent for the class and who believes that he/she has been discriminated against must first consult with an EEO Counselor within 90 calendar days of the matter giving rise to his or her individual allegation of discrimination, or 90 calendar days of its effective date if a personnel action. In addition to alleging that he or she has been personally discriminated against, the

aggrieved person must also indicate to the EEO Counselor his/her wish to pursue the matter as a class complaint and to act as the agent of the class. Because of the complexities involved in class complaints and potential for impact beyond the individual complainant, the Agency may designate specific individuals to serve as EEO Counselors who may counsel on matters giving rise to a class action complaint. (See FFM letter 713-38 for class complaint procedure.)

P. Review of allegation of reprisal. An employee or applicant may file a complaint of discrimination alleging restraint, interference, coercion, discrimination or reprisal for having raised an allegation of discrimination on grounds of one or more of the prohibited factors or having served as a representative of, or a witness for, another individual in connection with such an allegation. (Revised 11-4-87, PN 68.)

Attachments:

1. Sample - Complaint Form: Complaint of Discrimination in the Federal Government
2. Sample - Memorandum of Informal Adjustment of Formal Complaint

2045-X Exhibit F, Attachment No. 1 not automated see manual

Memorandum of Informal Adjustment of Formal Complaint

I, _____ (insert typed or printed name) _____, agree to withdraw my complaint of discrimination and/or reprisal* effective this date in consideration for the commitment of the Farmers Home Administration, evidenced by the signature of (State Director; Director, Finance Office or Administrator) below, to take the following action(s):

(Corrective action(s) and/or findings listed)

There are no other terms or conditions other than those specified. I understand that I am to be free from any reprisal in connection with the matter and that if the Farmers Home Administration rescinds or fails to carry out any of the above terms for reasons not attributable to my actions or conduct I may have my complaint reinstated for further processing from the point processing ceased under the terms of this adjustment.

(Signature of employee or applicant)

(Signature of State Director;
Director, Finance Office or
Administrator)

(Date)

(Date)

(Signature of Agency Administrator)

*In certain circumstances it may be desirable to specify the exact allegation(s) covered by the agreement.

Equal Employment Opportunity
Equal Employment Opportunity Advisory Committees

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Attachments:

- No. 1 - Sample Charter
- No. 2 - Report Format

Equal Employment Opportunity

Equal Employment Opportunity Advisory Committees

A. Purpose and scope. The purpose of this Exhibit is to set forth guidances and procedures for Equal Employment Opportunity Advisory Committees (EEOAC) in the Agency; to provide guidance to field managers (State Directors; Assistant Administrator, Finance Office) including employees interested in the function of of an EEOAC; and to set forth procedures for an EEOAC at the National and field levels. In scope , implementation of an effective EEOAC is the responsibility of top management officials, who are charged with the responsibility of providing positive support and recognition of the Agency's overall EEO program.

B. Composition of the committee.

(1) The Committee membership shall be, insofar as possible, representative of the race, sex, age, national origin, handicap and grade levels of employees, and be composed of elected and appointed members. The Agency Administrator, State Directors, and Assistant Administrator, Finance Office, St. Louis, Missouri, in collaboration with the Committee Chair will ensure that the composition of their Committee satisfies these criteria. Appointees in the National Office shall be nominated to the Agency Administrator by the Director, Equal Opportunity Staff (EOS); appointees in the Finance Office shall be nominated to the Assistant Administrator, Finance Office, by the EEO Specialist and the Union President; appointees in State Offices shall be selected by the State Director(s).

(2) EEOAC membership should be structured according to organizational units; e.g., by division or unit, County, District, or State Office, with one representatives and one alternate from each. When the election, appointment and service of alternates is impractical; however, all of the committee membership may be elected or appointed, as appropriate herein, to serve as members. Alternates in the field may attend Committee meetings at the discretion of the State Director and Assistant Administrator, Finance Office. However, to maintain continuity in carrying out Committee objectives, alternates will receive copies of all announcements, agenda, reports and minutes developed by the Committee. Alternates will attend Committee meetings and vote in the absence of elected members Agencywide.

(3) Employees who have full-time or collateral duty EEO responsibilities are ex officio members of the EEOAC and, therefore, may neither vote or serve as a Committee official; e.g., Chairperson, Secretary, Recorder. Ex officio members are, however, expected to attend all meetings. Immediate past chairpersons may serve an additional period of one year as ex-officio members to assist in providing continuity and consultation to the committee.

(4) The EEO Coordinator and Administrative Officers may serve as technical advisors to the Committee. Employees in personnel and/or administrative positions may also serve as technical advisors to the Committee at the discretion of the Chairperson.

C. Responsibilities of the EEOAC. The Committee advises and assists the EEO Officer (Administrator) and Deputy Equal Employment Opportunity Officers (DEEOO) (State Directors and Assistant Administrator, Finance Office, St. Louis, Missouri) in carrying out the objectives of the Agency's EEO program. The Committee seeks to assure an environment of EEO in the Agency, unrestricted by considerations of race, color, religion, age, sex, national origin or handicap, to establish lines of communication between employees and management through which employee views on EEO issues may be brought to the attention of management; to provide management with feedback on the performance of the EEO program; and to identify weaknesses and suggest ways in which the program can be improved. The EEOAC does not receive, investigate or in any way adjudicate individual or class complaints of discrimination. The Committee does not become involved in effecting changes in matters which affect working conditions when a labor organization has been recognized or certified under the Federal Service Labor-Management Relations Statute. Jurisdiction of the State and of the Finance Office committee is the State and the Finance Office only; jurisdiction of the the National Office committee is the National Office only.

D. Role of the EEOAC.

(1) Review recruitment practices and make recommendations for improving resources used to reach minorities and women for career positions, temporary summer employment or special appointments.

(2) Review the process for selecting employees for training and assignments which will improve their potential for advancement; and make recommendations to ensure that equal opportunity in training is provided for all employees.

(3) Review criteria and nominations for awards and make recommendations to assure fairness in the Recognition Program. (Revised 09-04-96, PN 265.)

(4) Review general causes for complaints of discrimination and assist in identifying problem areas.

(5) Monitor the affirmative employment aspects of the EEO program.

(6) Review and recommend improvements in employment programs, including Career Enhancement, Cooperative Education Agreements and the Worker Trainee Program.

E. Eligibility for membership.

- (1) Any permanent, full-time employee may serve on an EEOAC.
- (2) An employee may not serve more than two (2) consecutive terms.
- (3) Nominees should have demonstrated:
 - (a) Ability to accept responsibility;
 - (b) Concern for and dedication to the general welfare of all employees;
 - (c) Sensitivity to the interests and feelings of employees;
 - (d) Trust and confidence of co-workers and management; and
 - (e) Ability to recognize potential EEO problems and to recommend specific solutions.

F. Committee structure.

- (1) There are strengths and weaknesses of a committee composed of employees who are all appointed by management. The strength in this method is the support of management; the weakness is lack of confidence in the committee by employees, who may view the committee as an arm of management.
- (2) There are strengths and weaknesses of a committee composed of employees who are all volunteers. The strength in this method is the commitment of the employees because they are volunteers; the weakness is the improbability that an all-volunteer committee will represent the interest of the entire workforce.
- (3) There are strengths and weaknesses of a committee composed of employees selected by EEO Officials. The strength in this method is that EEO Officials would assure representation of the entire workforce (EEO Officials presumably would appoint minorities and women); the weakness is that the employees might represent the views of the EEO Officials, with dissident views being unrepresented.
- (4) Further, there are strengths and weaknesses of a committee composed of employees who are all elected. The strength in this method is that the committee would have credibility within the workforce, since it is not established by management or EEO; the weakness is the feasibility that it will not be representative of the workforce in race, sex and grade levels.

(5) The Agency's objective is to have EEOACs composed of all groups (minorities, non-minorities and women), managers and supervisors, all occupations and grade levels -- with both management and employee input into the membership. The best method for placing employees on the committee, therefore, is by election and appointment. Accordingly, elections will be conducted, then a number of people will be appointed to the Committee to improve representation of those races, occupations, grade levels, etc., which were not selected through the election process.

G. Subcommittees.

(1) A large committee should have subcommittees. Preferably, the committee should have five standing subcommittees to meet the goals and needs of the organization and they should be perpetuated on an annual basis.

(2) Possible Subject Areas for Subcommittees are the following:
(Revised 09-04-96, PN 265.)

By-Laws
Career Enhancement Program
Awards
Quality Step Increases
Recruitment
Disciplinary Actions
Merit Promotion Panels
Training
Community Participation

H. Examples of subcommittees:

(1) By-laws.

(2) Communication/Information Dissemination. Preparation of newsletters, etc.

(3) Internal Barriers.

(a) Merit Promotion Panels - if development of rating scales are left to the discretion of merit promotion panels, there will be a lack of consistency from panel to panel, resulting in improper screening of applicants. The objective is to have pre-developed rating scales for each grade level for all job announcements with multiple grades to contribute additional consistency to the evaluation panel process and minimize the subjectivity which can arise from panel to panel.

- (b) Promotions. Analyze data by race, sex and grade level.
 - (c) Quality-Step Increases. Analyze data by race, etc.
 - (d) Affirmative Employment Plan (AEP) and Federal Equal Employment Opportunity Recruitment Plan (FEORP). Managers and supervisors generally lack awareness of the AEP and FEORP plans -- the contents, objectives, strategies -- and their respective EEO responsibilities. A review of the objectives and accomplishments should be conducted semi-annually with managers and supervisors.
 - (e) Training. A disparity in the award of training opportunities by grade level, race and sex; training on the preparation of SF-171 applications; and use of videotapes to be developed by the National Office.
 - (f) Awards. Analyze data to determine whether there is a disparity in the ratings for minorities/women and non-minorities. In addition, the committee should receive a report on cash awards every quarter by grade, sex, race, and dollar amounts. (Revised 09-04-96, PN 265.
- (4) Scheduling. Scheduling of meetings, programs, training for the committee.
- (5) External Barriers. Update all Agency recruitment literature to reflect appropriate program and related job categories and ensure that it is geared toward the appropriate audience that the Agency wants to reach.
- (6) Ad Hoc or Special Subcommittees. Special issues may not always fall within the jurisdiction of a standing subcommittee. But once the by-laws have been adopted, the chairperson will have the authority to establish all committees not otherwise provided for in the bylaws. The flexibility and versatility in having occasional special committees can keep the committee alive and vibrant.
- (7) Mission. Nevertheless, these subcommittees should be established to perform a specific task or mission, and once that mission is accomplished, they should cease to exist.

I. Nomination and election procedure.

(1) National Office EEOAC. A memorandum to all employees prepared by the Director, CRS, will announce the date, location and time for making nominations to the Director. This memorandum will include eligibility criteria, length of serve on the Committee, functions of the Committee, the prescribed method of balloting, date of the election and location of the ballot box. Nominations will be open for a period of 14 days. Following close of the nominating period, the list of nominees will be announced at least seven (7) days before the election. The Director, CRS, or a designee will tabulate the ballots. The employees from each division or unit receiving the highest number of votes will be designated as that division or unit's representative on the EEOAC. In case of a tie, the Director, CRS, will have responsibility for determining a tie-breaking procedure.

(2) Field EEOAC. A memorandum prepared by the State Director, and Assistant Controller, will announce the date, location, and time for making nominations. This memorandum will include the criteria for eligibility, length of service, prescribed method of balloting, date of the election and location of the ballot box. Nominations will be open for a maximum of 14 days. Following close of the nominating period, the list of nominees will be announced at least seven (7) days before the election. The State Director or his/her designee, and the Assistant Controller or his/her designee, will tabulate the ballots. The employee(s) from each State, District, County or Division/Section in the Finance Office receiving the highest number of votes will be the member on the EEOAC. (If alternates are used, the employee receiving the second highest number of votes will be the alternate.) In case of a tie, the State Director and Assistant Controller, as appropriate, will have responsibility for determining tie-breaking procedures.

J. Authorization. Notification to employees of their appointment or election to the National Office Committee will be in writing and signed by the Administrator; notification to field Committee members will be in writing and signed by the State Director, or the Assistant Administrator, Finance Office. The notification will contain a brief description of the purpose of the Committee and provide an indication of the time required for Committee work.

K. Terms of service. The term of office for all Committee members, including alternates on field committees, will be three (3) years. The terms of service will be arranged so that one-third of the membership expires each year. Ex officio members will serve on the Committee for as long as they remain in their positions. An employee designated to complete the term of a member or alternate will be appointed for the remainder of the unexpired term.

P. Management support.

(1) An EEOAC can be a valuable source of information of what is going on in the Agency. If the Committee is representative of the divisions within the Agency and also the races, grade levels, occupations, etc., of the workforce, the Committee can help management to stay in touch with the needs of employees throughout the Agency.

(2) When a Committee-approved or Committee-developed proposal is made to management, it is not one person, but many who stand behind it. This provides support for management's position and actions and also assures that the Committee's actions are public knowledge and not something that happens behind closed doors.

(3) EEOAC can benefit those who serve on them. Committee membership can be a valuable developmental experience for employees whose jobs do not normally require interaction with management or require program planning, data analysis, leadership, or training skills. Many employees find that Committee participation brings out talents and abilities which were unrecognized or undeveloped in their day-to-day duties.

Q. Management requirements.

(1) Establish an EEOAC and assure that it is an integral part of the Agency's overall EEO program.

(2) Arrange for space and official time for EEOAC meetings.

(3) Allow for EEOAC meetings to take place not less than four items per year.

(4) Permit EEOAC members to participate in merit promotion panel meetings as observers in accordance with the Agencywide Merit Promotion Plan. Committee members (including ex officio members) may be called upon to serve at merit promotion panel meetings as EEO observers when composition of the panel does not include a minority or a female. To this end, the promotion panel expeditor should contact individual Committee members regarding the time and place the panel is scheduled to convene and the position for which the candidates are competing, and obtain the commitment of a member to serve as an observer.

(5) Further, in keeping with the Agencywide Merit Promotion Plan, the observer may serve as a voting panel member if he/she possesses the appropriate subject-matter knowledge. If the designated observer does not have the appropriate subject-matter knowledge, he/she should serve in a nonvoting capacity. It is preferred, of course, that the panel expeditor seek out an observer who possesses appropriate subject-matter knowledge and would therefore serve as a voting member. The role of the EEO Observer is directly related, and must always have some bearing on, minorities and women being given due consideration in the rating process. When a minority or woman is a panel member, it may not be necessary to have an EEO Observer.

(6) The sole purpose of the observation is to detect and report any non-merit conduct in the panel's rating of applicants, e.g., a panel member's reliance on personal knowledge of an applicant's experience in lieu of relying on the applicant's 171 submission. At the same time, the EEO Observer is not a participant in the panel's deliberation. By and large, the observer should refrain from conversing with the panel about the conduct of the panel and ratings assigned to applicants. Observers should not deviate from this rule when EEO observers have concerns regarding the panel's conduct, the matter should be brought to the attention of either the person in charge of the panel or the Administrative Officer.

(7) Permit the EEOAC to confer with the Agency Administrator, State Director(s), or Assistant Administrator, Finance Office upon request. (Renumbered 09-04-96, PN 265.)

R. Reporting requirements. All EEOACs will submit a copy of their Charter to the EEO Coordinator, National Office. A list of the current membership, the Agenda, and a copy of the minutes of each meeting will also be forwarded to the EEO Coordinator in the National Office. (See Attachment No. 2 of this exhibit for report format.)

ATTACHMENTS:

- No. 1 - Sample Charter
- No. 2 - Report Format

RURAL DEVELOPMENT

Equal Employment Opportunity (EEO) Advisory Committee

CHARTER

I. Role of the EEO Advisory Committee.

A. The EEO Advisory Committee shall advise and assist the Equal Employment Opportunity Officer (EEEO - (Administrator)) or Deputy EEEO (State Director, Assistant Administrator, Finance Office) on all matters relating to carrying out the objectives of the EEO Program.

In carrying out this role, the Committee will:

1. Provide the EEEO or Deputy EEEO feedback on the performance of the EEO Program, identify areas of weakness, and suggest ways in which the Program can be improved.
2. Identify emerging EEO Program areas needing attention from the EEEO or Deputy EEEO.
3. Provide an informal forum representative of employees to bring EEO matters to the attention of the EEEO or Deputy EEEO.

B. The Committee shall seek to create an environment conducive to improved efficiency of the Agency through recommendation for complete equality of employment opportunity, unrestricted by considerations of race, color, religion, sex, national origin, age, or handicapping condition.

II. Duties and Responsibilities of the Committee.

A. Recruitment. The Committee shall review current recruiting methods and make recommendations for improving the use of Agency resources in reaching members of all ethnic, and racial groups.

B. Training. The Committee shall review training programs and make recommendations to ensure that equal opportunity is provided for all employees to receive training which will increase their potential for advancement.

C. Awards. The Committee shall provide input into the Recognition Program including the EO Achievement Awards to assure fair and equitable recognition for outstanding service and accomplishments.
(Revised 09-04-96, PN 265.)

D. Promotions. The Committee shall review current personnel practices to determine whether the procedures set forth in the Merit Promotion Plan and other personnel regulations are being applied without discrimination for reasons of race, color, religion, sex, national origin, age, or handicapping condition.

E. Disciplinary Action. The Committee shall review disciplinary cases to determine whether or not disciplinary measures are being applied in the same manner for all employees.

F. Separations. The Committee shall review reasons for separations to determine whether the reasons for separations are being applied in the same manner for all employees.

G. Community Participation. The Committee shall encourage appropriate contacts with community and civic organizations, schools, and churches in order to establish a community relationship which will assist the Agency in accomplishing EEO objectives.

III. Authority of the Committee.

A. The Committee shall not attempt to resolve individual discrimination complaints or grievances, but will direct such matters to the proper channels for disposition.

B. The Committee shall not attempt to formulate policy in the EEO area.

C. The Committee shall consider only those problems affecting EEO.

D. The Committee shall, as it deems necessary, submit recommendations for action to the EEEO and Deputy EEEO.

E. The Committee may recommend to the EEEO and Deputy EEEO changes to be made in this Charter.

IV. Composition of the Committee.

A. National Office. An EEO Advisory Committee representative of all races, both sexes, at various grade levels and organizational units, based on nomination and election procedures contained in paragraph I (1) of this exhibit.

Equal Employment Opportunity
Equal Employment Opportunity Advisory Committees

A. Purpose and scope. The purpose of this Exhibit is to set forth guidances and procedures for Equal Employment Opportunity Advisory Committees (EEOAC) in Farmers Home Administration (FmHA); to provide guidance to field managers (State Directors; Assistant Administrator, Finance Office) including employees interested in the function of of an EEOAC; and to set forth procedures for an EEOAC at the National and field levels. In scope , implementation of an effective EEOAC is the responsibility of top management officials, who are charged with the responsibility of providing positive support and recognition of the Agency's overall EEO program.

B. Composition of the committee.

(1) The Committee membership shall be, insofar as possible, representative of the race, sex, age, national origin, handicap and grade levels of employees, and be composed of elected and appointed members. The Agency Administrator, State Directors, and Assistant Administrator, Finance Office, St. Louis, Missouri, in collaboration with the Committee Chair will ensure that the composition of their Committee satisfies these criteria. Appointees in the National Office shall be nominated to the Agency Administrator by the Director, Equal Opportunity Staff (EOS); appointees in the Finance Office shall be nominated to the Assistant Administrator, Finance Office, by the EEO Specialist and the Union President; appointees in State Offices shall be selected by the State Director(s).

(2) EEOAC membership should be structured according to organizational units; e.g., by division or unit, County, District, or State Office, with one representatives and one alternate from each. When the election, appointment and service of alternates is impractical; however, all of the committee membership may be elected or appointed, as appropriate herein, to serve as members. Alternates in the field may attend Committee meetings at the discretion of the State Director and Assistant Administrator, Finance Office. However, to maintain continuity in carrying out Committee objectives, alternates will receive copies of all announcements, agenda, reports and minutes developed by the Committee. Alternates will attend Committee meetings and vote in the absence of elected members Agencywide.

(3) Employees who have full-time or collateral duty EEO responsibilities are ex officio members of the EEOAC and, therefore, may neither vote or serve as a Committee official; e.g., Chairperson, Secretary, Recorder. Ex officio members are, however, expected to attend all meetings. Immediate past chairpersons may serve an additional period of one year as ex-officio members to assist in providing continuity and consultation to the committee.

(4) The EEO Coordinator and Administrative Officers may serve as technical advisors to the Committee. Employees in personnel and/or administrative positions may also serve as technical advisors to the Committee at the discretion of the Chairperson.

C. Responsibilities of the EEOAC. The Committee advises and assists the EEO Officer (Administrator) and Deputy Equal Employment Opportunity Officers (DEEOO) (State Directors and Assistant Administrator, Finance Office, St. Louis, Missouri) in carrying out the objectives of the Agency's EEO program. The Committee seeks to assure an environment of EEO in the Agency, unrestricted by considerations of race, color, religion, age, sex, national origin or handicap, to establish lines of communication between employees and management through which employee views on EEO issues may be brought to the attention of management; to provide management with feedback on the performance of the EEO program; and to identify weaknesses and suggest ways in which the program can be improved. The EEOAC does not receive, investigate or in any way adjudicate individual or class complaints of discrimination. The Committee does not become involved in effecting changes in matters which affect working conditions when a labor organization has been recognized or certified under the Federal Service Labor-Management Relations Statute. Jurisdiction of the State and of the Finance Office committee is the State and the Finance Office only; jurisdiction of the the National Office committee is the National Office only.

D. Role of the EEOAC.

(1) Review recruitment practices and make recommendations for improving resources used to reach minorities and women for career positions, temporary summer employment or special appointments.

(2) Review the process for selecting employees for training and assignments which will improve their potential for advancement; and make recommendations to ensure that equal opportunity in training is provided for all employees.

(3) Review criteria and nominations for awards and make recommendations to assure fairness in the incentive awards program.

(4) Review general causes for complaints of discrimination and assist in identifying problem areas.

(5) Monitor the affirmative employment aspects of the EEO program.

(6) Review and recommend improvements in employment programs, including Career Enhancement, Cooperative Education Agreements and the Worker Trainee Program.

E. Eligibility for membership.

- (1) Any permanent, full-time employee may serve on an EEOAC.
- (2) An employee may not serve more than two (2) consecutive terms.
- (3) Nominees should have demonstrated:
 - (a) Ability to accept responsibility;
 - (b) Concern for and dedication to the general welfare of all employees;
 - (c) Sensitivity to the interests and feelings of employees;
 - (d) Trust and confidence of co-workers and management; and
 - (e) Ability to recognize potential EEO problems and to recommend specific solutions.

F. Committee structure.

- (1) There are strengths and weaknesses of a committee composed of employees who are all appointed by management. The strength in this method is the support of management; the weakness is lack of confidence in the committee by employees, who may view the committee as an arm of management.
- (2) There are strengths and weaknesses of a committee composed of employees who are all volunteers. The strength in this method is the commitment of the employees because they are volunteers; the weakness is the improbability that an all-volunteer committee will represent the interest of the entire workforce.
- (3) There are strengths and weaknesses of a committee composed of employees selected by EEO Officials. The strength in this method is that EEO Officials would assure representation of the entire workforce (EEO Officials presumably would appoint minorities and women); the weakness is that the employees might represent the views of the EEO Officials, with dissident views being unrepresented.
- (4) Further, there are strengths and weaknesses of a committee composed of employees who are all elected. The strength in this method is that the committee would have credibility within the workforce, since it is not established by management or EEO; the weakness is the feasibility that it will not be representative of the workforce in race, sex and grade levels.

(5) The Agency's objective is to have EEOACs composed of all groups (minorities, non-minorities and women), managers and supervisors, all occupations and grade levels -- with both management and employee input into the membership. The best method for placing employees on the committee, therefore, is by election and appointment. Accordingly, elections will be conducted, then a number of people will be appointed to the Committee to improve representation of those races, occupations, grade levels, etc., which were not selected through the election process.

G. Subcommittees.

(1) A large committee should have subcommittees. Preferably, the committee should have five standing subcommittees to meet the goals and needs of the organization and they should be perpetuated on an annual basis.

(2) Possible Subject Areas for Subcommittees are the following:
(Revised 03-20-96, PN 259.)

By-Laws
Career Enhancement Program
Cash Awards
Quality Step Increases
Recruitment
Disciplinary Actions
Merit Promotion Panels
Training
Community Participation

H. Examples of subcommittees:

(1) By-laws.

(2) Communication/Information Dissemination. Preparation of newsletters, etc.

(3) Internal Barriers.

(a) Merit Promotion Panels - if development of rating scales are left to the discretion of merit promotion panels, there will be a lack of consistency from panel to panel, resulting in improper screening of applicants. The objective is to have pre-developed rating scales for each grade level for all job announcements with multiple grades to contribute additional consistency to the evaluation panel process and minimize the subjectivity which can arise from panel to panel.

- (b) Promotions. Analyze data by race, sex and grade level.
 - (c) Quality-Step Increases. Analyze data by race, etc.
 - (d) Affirmative Employment Plan (AEP) and Federal Equal Employment Opportunity Recruitment Plan (FEORP). Managers and supervisors generally lack awareness of the AEP and FEORP plans -- the contents, objectives, strategies -- and their respective EEO responsibilities. A review of the objectives and accomplishments should be conducted semi-annually with managers and supervisors.
 - (e) Training. A disparity in the award of training opportunities by grade level, race and sex; training on the preparation of SF-171 applications; and use of videotapes to be developed by the National Office.
 - (f) Incentive Awards. Analyze data to determine whether there is a disparity in the ratings for minorities/women and non-minorities. (Revised 03-20-96, PN 259.)
 - (g) Cash Awards. The committee should receive a report on cash awards every quarter by grade, sex, race and dollar amounts.
- (4) Scheduling. Scheduling of meetings, programs, training for the committee.
- (5) External Barriers. Update all Agency recruitment literature to reflect appropriate program and related job categories and ensure that it is geared toward the appropriate audience that the Agency wants to reach.
- (6) Ad Hoc or Special Subcommittees. Special issues may not always fall within the jurisdiction of a standing subcommittee. But once the by-laws have been adopted, the chairperson will have the authority to establish all committees not otherwise provided for in the bylaws. The flexibility and versatility in having occasional special committees can keep the committee alive and vibrant.
- (7) Mission. Nevertheless, these subcommittees should be established to perform a specific task or mission, and once that mission is accomplished, they should cease to exist.

I. Nomination and election procedure.

(1) National Office EEOAC. A memorandum to all employees prepared by the Director, CRS, will announce the date, location and time for making nominations to the Director. This memorandum will include eligibility criteria, length of serve on the Committee, functions of the Committee, the prescribed method of balloting, date of the election and location of the ballot box. Nominations will be open for a period of 14 days. Following close of the nominating period, the list of nominees will be announced at least seven (7) days before the election. The Director, CRS, or a designee will tabulate the ballots. The employees from each division or unit receiving the highest number of votes will be designated as that division or unit's representative on the EEOAC. In case of a tie, the Director, CRS, will have responsibility for determining a tie-breaking procedure.

(2) Field EEOAC. A memorandum prepared by the State Director, and Assistant Controller, will announce the date, location, and time for making nominations. This memorandum will include the criteria for eligibility, length of service, prescribed method of balloting, date of the election and location of the ballot box. Nominations will be open for a maximum of 14 days. Following close of the nominating period, the list of nominees will be announced at least seven (7) days before the election. The State Director or his/her designee, and the Assistant Controller or his/her designee, will tabulate the ballots. The employee(s) from each State, District, County or Division/Section in the Finance Office receiving the highest number of votes will be the member on the EEOAC. (If alternates are used, the employee receiving the second highest number of votes will be the alternate.) In case of a tie, the State Director and Assistant Controller, as appropriate, will have responsibility for determining tie-breaking procedures.

J. Authorization. Notification to employees of their appointment or election to the National Office Committee will be in writing and signed by the Administrator; notification to field Committee members will be in writing and signed by the State Director, or the Assistant Administrator, Finance Office. The notification will contain a brief description of the purpose of the Committee and provide an indication of the time required for Committee work.

K. Terms of service. The term of office for all Committee members, including alternates on field committees, will be three (3) years. The terms of service will be arranged so that one-third of the membership expires each year. Ex officio members will serve on the Committee for as long as they remain in their positions. An employee designated to complete the term of a member or alternate will be appointed for the remainder of the unexpired term.

L. Meetings.

(1) The EEOAC will meet no less than 4 times per year. All Committee members shall receive reimbursement for travel expenses and official time to attend meetings. The exact time and place shall be arranged by the Committee Chairperson. Special meetings may be called by the Chairperson when approved by the DEEOO. The request will state the purpose for which the special meeting is called. During the month of September, the new Chairperson will establish a schedule of meetings for the ensuing year.

(2) State Committees may wish to establish satellite or regional Committees to meet within the State in addition to its regularly scheduled Statewide meeting(s). Satellite or regional Committee meetings may serve to accommodate broad geographic areas as in Texas, Montana, and so forth.

M. Guidelines for committees.

(1) In order to be effective, the Committee should have the approval and the support of the highest levels of the organization. Supervisors and managers must know that the Committee is supported by their superiors, who will be looking for their support for the group. The Chairperson and composition of the group will, to a great extent, determine how the group will function and the direction it will take. Once the Committee is established, the members should jointly establish the Committee By-Laws, Charter, Constitution, or any other guideline(s) deemed appropriate.

(2) The Chairperson and composition of the group will, to a great extent, determine how the group will function and the direction it will take. It is always a good idea to assess the viability of goals on a continuing basis. The Committee will then want to establish specific objectives, action items, and strategies for achievement which are consistent with the goals.

(3) The Committee may want to consider establishing standing committees. For example, a standing committee on training, Career Enhancement, and/or recruitment would appropriately represent three areas that will require consistent attention of Committee members. More important, the Committee must establish guidelines which will assure the smooth functioning of the Committee. Rules and guidelines should exist to facilitate, not to obstruct progress. For this reason the Committee must prioritize its activities commensurate with its original goals and objectives.

(4) The person who chairs the Committee must employ good leadership techniques in order to insure that the Committee is worth the members' time and effort. The Committee exists to advise management and to be a source of assistance and influence in the Agency. This means that the group is participatory in nature. The Chairperson's task as group leader is to guide the discussion in such a way that any resolution is one that everyone understands and accepts as being the will of the Committee, even though some individuals do not necessarily agree with it.

(5) The manner in which meetings will be conducted determines, to a great extent, the effectiveness of the group's behavior, both in terms of individual members carrying out assignments, and in projects which require substantial cooperation and interaction. There are several steps to conducting a successful meeting. Normally, Committee meetings should follow the format outlined below:

- (a) Opening remarks or required introductions by presiding officer;
- (b) Approval or amendment, as necessary, of the minutes of the previous meeting(s);
- (c) Presentation of the topics on the agenda; and
- (d) General discussion of these topics. New subjects for discussion may be introduced provided they relate to EEO program improvement and their introduction is approved by the presiding officer.

(6) An agenda should be in existence before a meeting is called. A meeting should never be held to discuss what the agenda should be. In developing the agenda for the meeting, the Chairperson consirs all items suggested for discussion. A record of all suggested agenda items is kept with a notation of the reasons why any particular item was not included. The agenda can be a real asset, for it can move a meeting right along by clarifying its purpose. The common fault is to make the agenda too brief or vague to convey what is intended to happen. Instead, each item should be headed "for information," "for discussion," "for decision," so that everyone will know what is expected or desired from the group.

(7) Few meetings accomplish much after two hours. One hour and a half is recommended. The ending time should be stated in the agenda. Materials which need to be read should be circulated along with the agenda before the meeting.

(8) Annually, the committee should make recommendations to top management via a memorandum and request top management to respond in writing. When the committee makes its report to top management, then a majority of the committee should be in agreement with the report. The committee's recommendations should be supported by some tangible evidence, e.g., data and other documentation.

(9) Minutes of the meetings should be publicized to all employees in the State.

N. Guidelines for managers.

(1) Supervisors and managers should carefully identify the qualities which are sought in Committee members. It is recommended that members be representative of the workforce; have credibility with both management and employees; have the time and ability to devote to the program; and be committed to the goals of the EEOAC.

(2) There are several ways in which the Committee should reflect the make-up of the Agency's workforce. First, both minority and non-minorities should be represented. Although the Agency may not have many minorities, their absence is part of the problem; thus, there should be assurances that their concerns are represented on the Committee. There should also be assurances that all organizational units of the Agency are represented. Supervisors and managers should not allow the Committee to be dominated by one division or section, but to assure that a wide range of occupations is represented. This will ensure that all employees' needs are considered, as well as provide feedback from the entire organization to the Manager.

O. Guidelines for chairpersons.

(1) The EEOAC By-laws will be the most valuable resource for the general conduct of meetings. However, the nuts and bolts of conducting effective meetings will not be found in the Bylaws, but in the experiences acquired from chairing meetings.

(2) The key to effective chairpersonship is organization. Hence, an agenda is essential. Not only does an agenda keep the chairperson on course, it also serves to minimize the incidental discussions and conserve the committee's valuable time for more germane issues.

(3) Further, it is important to have a permanent record of the proceedings. This requires that someone be designated to record the minutes, e.g., a Recording Secretary. In addition to providing a permanent record of the proceedings, the minutes can also form the basis for any written report which may be required of the chairperson.

(4) Although not essential, the distribution of an attendance roster is also helpful in establishing a permanent record of attendance.

(5) The chairperson's job can be divided into two corresponding tasks:

(a) dealing with the subject; and

(b) dealing with the people.

(6) In dealing with the subject, the chairperson should make sure that all members understand the issue and why they are discussing it.

(7) If the discussion is likely to be long or complex, the chairperson should propose to the group the structure for the meeting (written up if necessary). He or she should listen carefully in the event individuals on the committee jump too far ahead or go back over old ground, or start repeating points that have been made earlier. This can be confusing. If he or she does not follow an argument or understand a reference, the chairperson should seek clarification from the speaker. If he or she thinks two people are using the same words with different meanings, he or she should intervene.

(8) A discussion should be closed once it has become clear;

(a) that more facts are required before further progress can be made;

(b) that discussion has revealed that the meetings need the views of people not present;

(c) that members need more time to think about the subject and perhaps discuss it with other members;

(d) that events are changing and likely to alter or clarify the basis of the decision quite soon;

(e) that there is not going to be enough time at the meeting to go over the subject properly; and

(f) that two or three of the members can settle a difference in views outside the meeting without taking up the time of the other members.

(9) At the end of discussion of each agenda item, the chairperson should give a brief and clear summary of what has been agreed on. It serves not merely to put the item on record, but also to help people realize that something worthwhile has been achieved.

(10) In dealing with the people, the chairperson should start all meetings on time. In meetings where someone takes a long time to say very little, the chairperson should help indicate to the person the need for brevity.

(11) A good meeting is not a series of dialogues between individual members and the chairperson. Instead, it is a cross-flow of discussion and debate with the chairperson occasionally guiding, directing, probing, stimulating and summarizing, but mostly letting the others thrash ideas out.

P. Management support.

(1) An EEOAC can be a valuable source of information of what is going on in the Agency. If the Committee is representative of the divisions within the Agency and also the races, grade levels, occupations, etc., of the workforce, the Committee can help management to stay in touch with the needs of employees throughout the Agency.

(2) When a Committee-approved or Committee-developed proposal is made to management, it is not one person, but many who stand behind it. This provides support for management's position and actions and also assures that the Committee's actions are public knowledge and not something that happens behind closed doors.

(3) EEOAC can benefit those who serve on them. Committee membership can be a valuable developmental experience for employees whose jobs do not normally require interaction with management or require program planning, data analysis, leadership, or training skills. Many employees find that Committee participation brings out talents and abilities which were unrecognized or undeveloped in their day-to-day duties.

Q. Management requirements.

(1) Establish an EEOAC and assure that it is an integral part of the Agency's overall EEO program.

(2) Arrange for space and official time for EEOAC meetings.

(3) Allow for EEOAC meetings to take place not less than four items per year.

(4) Permit EEOAC members to participate in merit promotion panel meetings as observers in accordance with the Agencywide Merit Promotion Plan. Committee members (including ex officio members) may be called upon to serve at merit promotion panel meetings as EEO observers when composition of the panel does not include a minority or a female. To this end, the promotion panel expeditor should contact individual Committee members regarding the time and place the panel is scheduled to convene and the position for which the candidates are competing, and obtain the commitment of a member to serve as an observer.

(5) Further, in keeping with the Agencywide Merit Promotion Plan, the observer may serve as a voting panel member if he/she possesses the appropriate subject-matter knowledge. If the designated observer does not have the appropriate subject-matter knowledge, he/she should serve in a nonvoting capacity. It is preferred, of course, that the panel expeditor seek out an observer who possesses appropriate subject-matter knowledge and would therefore serve as a voting member. The role of the EEO Observer is directly related, and must always have some bearing on, minorities and women being given due consideration in the rating process. When a minority or woman is a panel member, it may not be necessary to have an EEO Observer.

(6) The sole purpose of the observation is to detect and report any non-merit conduct in the panel's rating of applicants, e.g., a panel member's reliance on personal knowledge of an applicant's experience in lieu of relying on the applicant's 171 submission. At the same time, the EEO Observer is not a participant in the panel's deliberation. By and large, the observer should refrain from conversing with the panel about the conduct of the panel and ratings assigned to applicants. Observers should not deviate from this rule when EEO observers have concerns regarding the panel's conduct, the matter should be brought to the attention of either the person in charge of the panel or the Administrative Officer.

(7) Permit the EEOAC to confer with the Agency Administrator, State Director(s), or Assistant Administrator, Finance Office upon request. (Renumbered 09-04-96, PN 265.)

R. Reporting requirements. All EEOACs will submit a copy of their Charter to the EEO Coordinator, National Office. A list of the current membership, the Agenda, and a copy of the minutes of each meeting will also be forwarded to the EEO Coordinator in the National Office. (See Attachment No. 2 of this exhibit for report format.)

ATTACHMENTS:

- No. 1 - Sample Charter
- No. 2 - Report Format

RURAL DEVELOPMENT

Equal Employment Opportunity (EEO) Advisory Committee

CHARTER

I. Role of the EEO Advisory Committee.

A. The EEO Advisory Committee shall advise and assist the Equal Employment Opportunity Officer (EEEO - (Administrator)) or Deputy EEEO (State Director, Assistant Administrator, Finance Office) on all matters relating to carrying out the objectives of the EEO Program.

In carrying out this role, the Committee will:

1. Provide the EEEO or Deputy EEEO feedback on the performance of the EEO Program, identify areas of weakness, and suggest ways in which the Program can be improved.
2. Identify emerging EEO Program areas needing attention from the EEEO or Deputy EEEO.
3. Provide an informal forum representative of employees to bring EEO matters to the attention of the EEEO or Deputy EEEO.

B. The Committee shall seek to create an environment conducive to improved efficiency of the Agency through recommendation for complete equality of employment opportunity, unrestricted by considerations of race, color, religion, sex, national origin, age, or handicapping condition.

II. Duties and Responsibilities of the Committee.

A. Recruitment. The Committee shall review current recruiting methods and make recommendations for improving the use of Agency resources in reaching members of all ethnic, and racial groups.

B. Training. The Committee shall review training programs and make recommendations to ensure that equal opportunity is provided for all employees to receive training which will increase their potential for advancement.

C. Awards. The Committee shall provide input into the Recognition Program including the EO Achievement Awards to assure fair and equitable recognition for outstanding service and accomplishments.
(Revised 09-04-96, PN 265.)

D. Promotions. The Committee shall review current personnel practices to determine whether the procedures set forth in the Merit Promotion Plan and other personnel regulations are being applied without discrimination for reasons of race, color, religion, sex, national origin, age, or handicapping condition.

E. Disciplinary Action. The Committee shall review disciplinary cases to determine whether or not disciplinary measures are being applied in the same manner for all employees.

F. Separations. The Committee shall review reasons for separations to determine whether the reasons for separations are being applied in the same manner for all employees.

G. Community Participation. The Committee shall encourage appropriate contacts with community and civic organizations, schools, and churches in order to establish a community relationship which will assist the Agency in accomplishing EEO objectives.

III. Authority of the Committee.

A. The Committee shall not attempt to resolve individual discrimination complaints or grievances, but will direct such matters to the proper channels for disposition.

B. The Committee shall not attempt to formulate policy in the EEO area.

C. The Committee shall consider only those problems affecting EEO.

D. The Committee shall, as it deems necessary, submit recommendations for action to the EEEO and Deputy EEEO.

E. The Committee may recommend to the EEEO and Deputy EEEO changes to be made in this Charter.

IV. Composition of the Committee.

A. National Office. An EEO Advisory Committee representative of all races, both sexes, at various grade levels and organizational units, based on nomination and election procedures contained in paragraph I (1) of this exhibit.

B. Field Offices. An EEO Advisory Committee representative of all races, insofar as possible, both sexes, at various grade levels and encompassing all geographical areas, based on nominations and election procedures contained in paragraph I (2) of this exhibit.

C. Membership. Membership of the Committee shall be no fewer than seven (7) members. Terms of services for Committee members and alternates will be arranged so that one-half of the membership expires each year. At the time a Committee is established at both National and field locations, over half of the members and alternates will be appointed for a term of 1-year and the other half for a term of 2-years. An aggregate of 2-years will be the maximum term of office for Committee members and alternates, except as contained below.

1. A member and alternate designated to succeed a member and alternate whose terms have expired will be appointed for two years.

2. A member and alternate designated to complete the term of a member and alternate will be appointed for the remainder of the unexpired term.

3. A member and alternate may not be reappointed on the same committee until after a lapse of one year without prior approval of the appropriate National and field officials, except that a person who has served for less than six months may be reappointed immediately.

D. Attendance. All EEO Advisory Committee members will attend meetings and conduct Committee business on official time and at Government expense.

E. Advisor. The Administrative Officer shall serve as an advisor to the EEO Advisory Committee.

F. Ex Officio Members. The EEO Coordinator, National and field Federal Women's Program Managers, National and field Hispanic Employment Program Managers, and the Indian Coordinator, are ex officio members and shall serve on their respective Committees for as long as they remain in their positions. Ex officio members do not hold office.

G. Committee members selected shall have demonstrated:

1. Ability to accept responsibility.

2. Concern for and dedication to the general welfare of all employees.

3. Sensitivity to the interests and feelings of all people.

4. Trust and confidence of coworkers and management; and
5. Ability to recognize potential EEO problems and to recommend specific solutions.

H. Service on the Committee is voluntary.

V. Officers of the Committee.

A. The members of the Committee shall elect a Chairperson, Vice-Chairperson, and Secretary annually.

B. The Chairperson presides over Committee meetings and is responsible for the orderly conduct of such meetings and for maintaining liaison with the EEEO and Deputy EEEO.

C. In the absence of the Chairperson, the Vice-Chairperson will perform all of the Chairperson's duties. If a vacancy occurs in the office of Chairperson, the Vice-Chairperson will assume that office. A new Vice-Chairperson will then be elected.

D. The Secretary shall:

1. Record the minutes of each meeting and distribute copies to members, State, District, and County Office staffs, and to the EEEO, Deputy EEEO, and EEO Coordinator within one month following the meeting.
2. Send announcements/notices of meetings to Committee members at least one month before the meeting with copy of agenda.
3. Handle correspondence and other duties in connection with office.

E. To be eligible for election to the office of Chairperson, following the initial installation proceedings, a member must have served on the Committee for at least 12 consecutive months.

F. If a vacancy occurs in the office of Vice-Chairperson, the Chairperson shall appoint a replacement for the remainder of the term.

VI. Meetings of the Committee.

A. The Committee shall meet quarterly or more often if necessary. Exact time and place shall be fixed by the Committee in consultation with the EEEO and Deputy EEEO or their designee.

B. Special meetings may be called upon written request to the Chairperson. The request shall state the purpose for which the special meeting is called and should be filed with the secretary at least 48 hours in advance. The request will be read at the meeting and entered into the minutes.

C. A simple majority vote shall determine the course of action of the Committee.

D. The Committee shall prepare its own agenda for all meetings and establish its own rules for the conduct of meetings and other Committee activities.

E. The Committee shall meet on official time and shall receive reimbursement for travel expenses.

F. Employees who are requested to appear at Committee meetings shall be granted official time and reimbursement for travel expenses.

G. The Committee shall record its recommendations to the EE00 and DEEO0 in its minutes. Communications from the EE00 and the Deputy EE00 also shall be made a part of the Committee's minutes. Recommendations not resolved shall be continued in subsequent meetings and recorded in the minutes until no further action is required.

2045-X Exhibit G, Attachment No. 2 not automated see manual